Al Maqdisiyah

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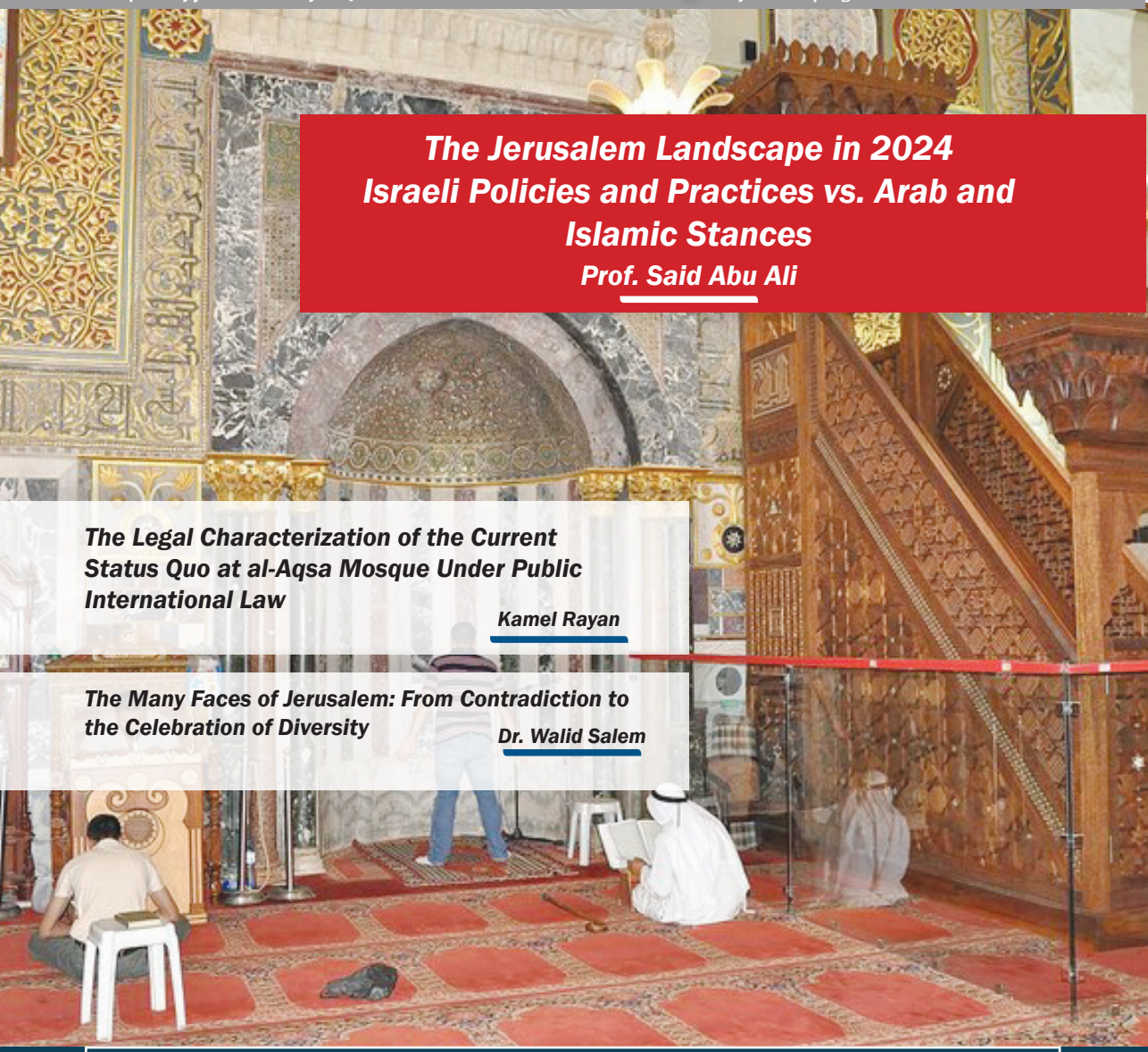

The Jerusalem Landscape in 2024 Israeli Policies and Practices vs. Arab and Islamic Stances

Prof. Said Abu Ali

The Legal Characterization of the Current Status Quo at al-Aqsa Mosque Under Public International Law

Kamel Rayan

The Many Faces of Jerusalem: From Contradiction to the Celebration of Diversity

Dr. Walid Salem

Contributors :

Prof. Ahmed Abdel Halim Atiya ▪ Prof. Ralph Wilde ▪ MARWAN ABU KHALAF ABU KHALAF ▪ ashraf azab

المقدسية

مجلة فصلية تصدر عن مركز دراسات القدس في جامعة القدس

السنة السابعة – العدد السادس والعشرون - ربيع 2025

من كونجسبرج إلى قدسنبرج

أ.د أحمد عبد الحليم عطية

مشاريع التهجير من القدس إلى غزة

الخلفيات الفكرية والآفاق المستقبلية لخطة تهجير غزة الترامبية

حل «المشكلة العربية» بالغلبة الديمغرافية عبر الترحيل و/أو والإبادة
القدس والمناطق المسماة «ج» كحالتين دراسيتين

كُتاب العدد: أ.د. سعيد أبو علي – د. وليد سالم– أ. أشرف عزب

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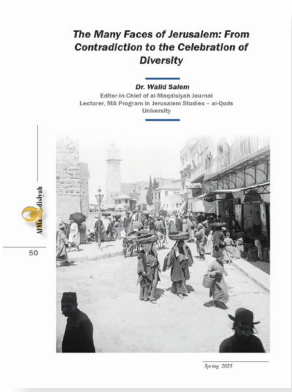
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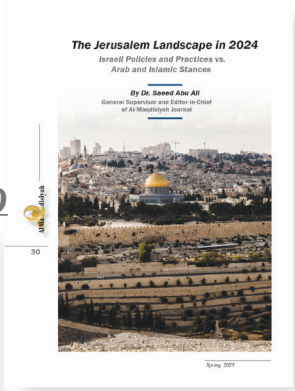
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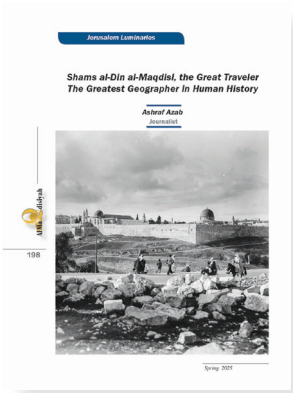

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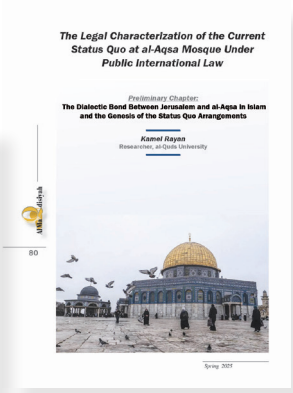
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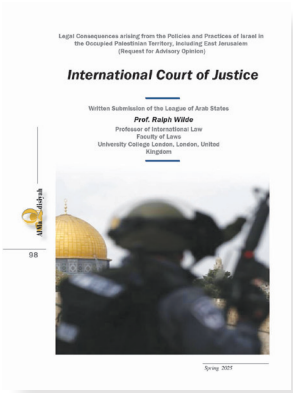
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By Editor-in-Chief and General Supervisor,
Prof. Said Abu Ali

This second English-language issue of al-Maqdisiyah is published in a moment of grave and fateful developments surrounding the Palestinian cause. It emerges while Gaza endures a campaign of annihilation—a war of extermination and calculated destruction targeting every vestige of life—spilling into the West Bank, particularly its northern regions (Jenin and Tulkarm), alongside Area C and the city of Jerusalem.

This ferocious assault has laid bare the true objectives of the war: the forced displacement of Gaza's inhabitants through the ruthless deployment of military machinery against a defenseless civilian population, and the deliberate eradication of all means of dignified existence. The intent is unmistakable—to leave no path open to the surviving civilians but what the occupation cynically describes as "voluntary migration."

Such an outcome aligns with the vision once voiced by Trump: that the war should persist until its aim is achieved—displacing the people of Gaza, relocating them beyond their homeland into neighboring countries, chiefly Egypt. Only then, it is claimed, can Gaza be "rebuilt"—a process envisioned to stretch over many years, culminating in the creation of a "Middle Eastern Riviera" under American ownership or control. In this vision, the land is not homeland, but real estate; its people not rightful heirs, but dispensable. This is a vision blind to the unalienable rights of a people, blind to the fact that Gaza and its people are an inseparable part of the Palestinian nation and its historic land.

Naturally, this vision dismisses entirely the foundations of international law, tramples the principles and resolutions of the international community, and violates—flagrantly—the statutes of global justice. It stands in contempt of the rulings of international courts that have called for an end to genocide and forced

displacement, and that have recognized the Palestinian people's right to self-determination—rights foundational to peace and stability, which cannot flourish unless justice is done for the Palestinian people through the realization of the two-state solution, long echoed by the conscience of the world.

Yet such a solution, long yearned for by the peoples of the region and beyond, demands first and foremost that the international community intensify its efforts—rooted in legal, moral, and humanitarian responsibility—to uphold collective security, defend human dignity, and halt the machinery of extermination. The international community must face down all efforts to uproot, erase, and silence the cause of Palestine.

And if this community is to oppose Trump's vision of exiling Gaza's people and imposing American dominion over their ravaged land—land soaked in the blood of men, women, and children—then it must move beyond expressions of condemnation and revulsion. It must act—urgently and through all available means—to bring this genocide to an end, a genocide unfolding before the very eyes and ears of the world. This war, and the unprecedented atrocities it continues to produce under siege and starvation, pierce the conscience of any soul still awake, forcing us to ask: what is left of our humanity? What meaning does human dignity still hold?

At the same time, the informed observer and seasoned politician alike know well that the genocidal campaign in Gaza, with its tactics and aims, is not disconnected from Jerusalem. Rather, the world's preoccupation with the war has been seized upon to obscure the ongoing Judaization of the Holy City. These efforts, relentless and systematic, are conducted under the cover of the Trump administration's recognition of Israel's annexation of Jerusalem and the relocation of the U.S. embassy to the city.

Given al-Maqdisiyah's exclusive focus on Jerusalem, this issue is devoted to themes that speak to the present and future of the city. It begins with a critical overview of the events of 2024, a year marked by continuous assault and profound changes—both geographic and demographic—aimed at dismantling Jerusalem's Arab identity and advancing settlement and ethnic cleansing schemes. We also examine the occupation's repeated violations of the sanctity of Islamic and

Christian holy sites, particularly al-Aqsa Mosque.

On this front, al-Maqdisiyah is proud to launch a dedicated series of articles based on a doctoral dissertation defended at al-Quds University by researcher Kamel Rayan. His work, titled The Legal Characterization of the Current "Status Quo" at al-Aqsa Mosque under Public International Law, will offer a rigorous legal lens into this critical matter.

This issue also includes two vital articles: one on The Multiple Faces of Jerusalem: From Contradiction to Celebrating Diversity, which explores coexistence and the richness of demographic diversity that defines Jerusalem's character as a city of heavenly faiths; and another essay on Palestine and Sartre in Contemporary Arab Thought, probing Sartre's philosophical frameworks and their relevance to the Palestinian question.

Furthermore, this issue features the annual report by the Jerusalem Governorate documenting Israeli violations in the city, and a summary of the oral argument presented by international lawyer Professor Ralph Wilde before the International Court of Justice on behalf of the League of Arab States, concerning the legal consequences of Israel's policies and practices in the occupied Palestinian territories, including East Jerusalem.

The issue concludes with a tribute to a towering Jerusalemite figure—Shams al-Din al-Maqdisi—widely recognized in historical and scholarly sources as the greatest Arab traveler known to history. His legacy continues to illuminate the cultural grandeur of Jerusalem.

As al-Maqdisiyah aspires to sustain its English-language publication, it extends an open invitation to all scholars and objective writers concerned with Jerusalem's fate. Submissions originally in Arabic are welcome, as translation support is available. We likewise welcome observations and suggestions that may further elevate the magazine and deepen its contribution to Jerusalem's identity—as a sacred city of faith, tolerance, and peace.

Jean-Paul Sartre and Palestine in Contemporary Arab Thought

Prof. Ahmed Abdel Halim Atiya
Professor of Philosophy, Cairo University

Before delving into the various stances Sartre adopted regarding the Palestinian cause—stances that led to a profound shift in how Arab intellectuals engaged with him due to his hesitations, neutrality, sympathies, and eventual alignment with the Zionist usurpation of Palestine—it is essential to first examine the prior enthusiasm Arab intellectuals harbored toward the philosopher of "commitment." Their writings about him intertwined their hopes and aspirations with his works and ideas, creating an image that might be termed "the Arab Sartre." Within the Arab intellectual sphere, Sartre was portrayed as the embodiment of the "human conscience" and a "storm upon the age." Articles were dedicated to him, dialogues conducted, letters addressed to him, and extensive studies compiled—not only concerning his philosophy but also reflecting our ardent admiration for it and the great hopes we invested in it.

For nearly a quarter of a century, we lived through the "Sartre era," which commenced in our cultural landscape after World War II and held an overwhelming influence on our writings until the June 1967 War. The closing chapter of this engagement can be discerned in an article by Ibrahim Amer, published in al-Hilal in January 1968, titled After Sartre. Given its subject and timing, this study signified a dual ending: the decline of Sartre's philosophy with the rise of structuralism, which transcended existentialism and engaged in numerous intellectual disputes with Sartre on the one hand, and the waning enthusiasm of Arab intellectuals on the other—particularly after the June 1967 War, during which Sartre aligned himself with Israel following his well-known visit to Egypt in March of that year[1]. As a result, translations of his works diminished or ceased altogether, except for a few literary and artistic pieces. Consequently, interest in him transitioned into purely academic studies, treating him as a historical figure in philosophy rather than a living part of Arab intellectual culture, which had once played a role in shaping modern Arab thought and sentiment.

This delineates two distinct phases in the Arab intellectual engagement with Sartre. The first was characterized by the rise of ideas centered on freedom,

1 - Refer to Sartre's visit to Egypt in Aida al-Sherif's Sartre in Cairo, Philosophical Papers, Issue 14, pp. 108–87, as well as Hoda Wasfi's Sartre in Egypt (in French).

independence, progress, and social justice—concepts that had not yet been theoretically established in our consciousness. Sartre was seen as a beacon who could solidify and articulate this vision, paving the way for liberty and progress. The second phase, following the defeat of 1967, was marked by introspection, self-criticism, and a reassessment of the West—of which Sartre was a part. Just as he had taken supportive stances, he could also be swayed or fall under Zionist influence. This ambivalence is evident in our writings about him, which often reflect our own perspectives as much as they interpret his philosophy.

To explore this transformation, we shall first examine a selection of testimonies from Arab writers about Sartre, shedding light on the image he occupied in the Arab intellectual and emotional landscape. We shall then analyze the diverse Arab responses to his writings and positions on the Palestinian cause and the Jewish question within the context of the Arab-Israeli conflict.

Sartre in the Arab Imagination

I. "Whenever Sartre wrote, we wrote about him. The more we tried to grasp him, the more he eluded us, soaring like an intoxicated bird condemned to fly through the skies, just as others were doomed to burrow into the earth."—So wrote the Moroccan intellectual Abdelkebir Khatibi in French, capturing the resonance of Sartre's positions within us. He continues: "During the 1960s, some veterans in the heart of the Champs-Élysées cried out, 'Execute Sartre!'—a reaction to his stance on the Algerian struggle[2]. Who among us did not feel an innate solidarity with Sartre? We soared when he soared, wandered when he wandered. Oh, what bliss! Those were the sublime moments when we felt the pulse of history vibrating within us, compelling us to exceed our limits. The revolutionary fervor he instilled in us was immense. Meanwhile, the West, complacent in its conscience, trembled in fear. He was with us, one of us—he shook us, thrilled us, intoxicated us. Our passion for his stances only grew, intensifying our delight.[3]"

2 - See Abdelmajid Omrani's Jean-Paul Sartre and the Algerian Revolution, Madbouly Library, Cairo (n.d.), as well as our study Sartre and the Algerian Resistance, presented at the symposium Fifty Years Since the Outbreak of the Algerian Revolution, Historical and Philosophical Studies Laboratory, Constantine, Algeria, 2004, and later published in the special Sartre dossier of Akhbar al-Adab, Cairo.

3 - Abdelkebir Khatibi, Sartre's Tears, Philosophical Papers, Issue 13, p. 45.

Under the title We and Sartre, the Lebanese literary journal al-Aadaab—which, along with Dar al-Aadaab, played a pivotal role in introducing Sartre's philosophy and translating his works—published an editorial by Suhail Idris. In a Letter to Sartre, featured in the fifth issue of al-Aadaab (1965), Idris enclosed a previous edition of the journal that had devoted its opening pages to Sartre, celebrating his refusal of the Nobel Prize. He wrote: "Dar al-Aadaab has taken it upon itself to introduce Arab readers to your works—works of the deepest freedom."

But why this particular moment of fervent interest? The explanation lies in the fact that Arabs found in Sartre's writings a mirror for their own suffering and dilemmas. After the catastrophe of Palestine, one might have expected the emergence of an Arabic literary movement reflecting the crisis, but in its absence, new generations turned to foreign literatures that could articulate their anxieties, fragmentation, and aspirations. They found precisely that in existentialist literature in general and in Sartre's works in particular[4].

The same sentiment expressed by the Lebanese existentialist was echoed by the Egyptian Marxist Ahmad Abbas Saleh, who, in a 1967 issue of al-Katib magazine, wrote to Sartre, stating: "You are undoubtedly aware of the profound impact you have had on contemporary culture. But what you may find hard to believe is that you have touched the very heartstrings of Arab intellectuals… Your influence in this region surpasses that of any other writer.[5]" Saleh's words reveal a collective feeling that Sartre was the thinker awaited by the Arabs—the one who would fulfill all their aspirations.

It was Sartre's ability to encapsulate suffering, along with his support for revolutionary struggles, that underpinned the Arab intellectuals' discourse toward him, urging him to understand the central cause that preoccupied them in 1967: Palestine. This explains their eagerness to invite him to Cairo, an invitation he accepted, bringing immense joy to figures such as Suhail Idris, who wrote: "This visit gladdens the hearts of all Arab intellectuals… It carries another crucial

4 - Souheil Idriss, A Letter to Sartre, al-Aadaab al-Bayrutiyya, Issue 1965 ,5.

5 - Ahmed Abbas Saleh, al-Katib al-Qahiriya, Issue 1967 ,72.

dimension—the hope of persuading Sartre of the justice of the Arab cause: Palestine.[6]"

The enthusiasm permeated literary circles as well. In a 1964 issue of al-Katib, Egyptian novelist Yusuf Idris described the literary event of the year as Sartre's refusal of the Nobel Prize, in his article The Prize That Rejected the Prize. Meanwhile, critic Galal al-Ashri, in al-Fikr al-Mu'asir, dubbed Sartre "the conscience of the age." Sartre's presence in Arab thought reached its zenith in early 1967, when diverse analyses and impassioned letters revealed a deep-seated admiration and conviction in his ideas. What we have presented in the preceding citations reveals what Zaki Naguib Mahmoud called "intellectual magnetism," what Abdel-Kebir Khatibi termed "revolutionary rapture," what Abbas Saleh described as "touching the heart's core," and what Mujahid Abdel-Moneim Mujahid simply named "passion." It was an ardor that coursed through the very fabric of Arab intellectual life, manifesting in their translations of Sartre's works, their writings about him, and even their critiques of his philosophy and stances. The Arabs found in Sartre's thought the challenge they had long sought, and thus he became their Sartre—an intellectual preoccupation, a presence that occupied their minds and hearts. They crafted for him a singular image, one shaped by the hundreds of studies dedicated to him, giving rise to a rare cultural phenomenon that bore his name: Sartre.

This enthusiasm was summed up by Khairy Mansour in an issue of al-Fikr al-Arabi al-Mu'asir, where he wrote: "Reading what Arab intellectuals have written about Sartre, one might feel as though he were our own discovery, our own creation. Since we welcomed him into our libraries, he has been the most pervasive presence in our literature, politics, and even our way of thinking. He is, in this sense, the emblem of an era. Just hearing his name—like Proust's madeleine—illuminates the memory of a generation convinced of the superiority of its recent past, its gravity, and its earnestness.[7]"

The reception of Sartre in contemporary Arab thought was thus marked by intensity,

6 - Souheil Idriss, al-Aadaab al-Bayrutiyya, February Issue, 1967.

7 - Khairy Mansour, Sartre and the Arabs, al-Fikr al-Arabi al-Mu'asir magazine, Issue No. 3.

controversy, and ideological struggles. While many championed his philosophy of freedom, commitment, and responsibility, others dismissed existentialism as reactionary. Just as Existentialism is a Humanism was translated into Arabic, so too was Jean Kanapa's Existentialism is Not a Humanism. Just as R. M. Albress translated Sartre and Existentialism—which, according to its Arabic rendition, provides a precise account of Sartrean thought and does him justice—Lucien Goldmann's Sartre and Philosophy was also translated, a work that confronts existentialism as a heresy and subjects it to critique. Enthusiasm was met with criticism, though the former often prevailed. Yet, even amid this fervor, one can discern various forms of philosophical, religious, and political critique directed at Sartre's work, each driven by distinct motivations—motivations that merit careful examination and analysis.

Despite Abdel Azim Anis's fierce denunciation of existentialism as a reactionary social philosophy, his critique is primarily directed at Sartre's existentialism, drawing heavily on Roger Garaudy's Marxist-era writings on the literature of cemeteries. Anis engages with existentialist discourse as it appeared in al-Katib al-Masri magazine, portraying it as a social philosophy championed and defended by Sartre—the eminent French writer and philosopher—who, in speaking of freedom, means nothing other than anarchism in its most distilled form.

Anis argues that existentialism's stance on freedom and human will must be understood through two fundamental roots: science and history. Yet existentialism disregards the accumulated wisdom of human experience, dismissing it entirely. Sartre himself asserts, "Man must begin from nothing."

In contemporary Arab thought, figures such as George Tarabishi sought to reconcile Sartre with Marxism. Tarabishi, who translated several of Sartre's works, explored this connection in his study Sartre and Marxism (published by Dar al-Tali'a, Beirut, 1964). The book encapsulates the anxiety and ideological turmoil of the 1960s generation, who, in their quest for a theoretical foundation for Arab socialism, found themselves adrift. The author repeatedly references this crisis in his introduction:

"We felt the ground shifting beneath our feet. We felt we had no theory. And the

only available socialist theory at the time filled us with dread. When we began reading, it was not to become true socialists but to stand our ground against the terrifying specter of Marxism.[8]"

It was in this climate of caution and apprehension toward Marxism that Arab intellectuals discovered Sartre. At that moment, he appeared as the long-awaited philosopher, simultaneously fulfilling two needs: the leftist rejection of the oppressive Arab regimes and the search for a revolutionary alternative to Marxism. They fashioned an image of Sartre that suited their aspirations—a non-Marxist revolutionary—long before he wrote The Critique of Dialectical Reason. For these young Arab leftists, Sartre became the bridge to Marxism, the necessary first step toward it[9].

During the 1950s and 1960s, Sartre emerged as one of the most influential thinkers in Arab intellectual and cultural circles. Many Arab intellectuals sought to align his existentialist and humanist philosophy with Islamic heritage and Sufi thought, hoping to establish a philosophical foundation for a modern Arab renaissance. Others emphasized the connection between Sartrean existentialism and Marxism as a means of forging a revolutionary path to address pressing Arab realities—particularly two issues that preoccupied the Arab world at the time: the assertion of national independence and the pursuit of social transformation. Sartre thus appeared almost as an Arab philosopher, his works seeming to articulate

8 - Georges Tarabichi, Sartre and Marxism, Dar al-Tali'a, Beirut, 1964.

9 -Initially, Sartre was misunderstood as an alternative to Marxism—»We first misunderstood Sartre.» Rather than reading him directly, we projected onto him what we wished to find. This Arab enthusiasm for Sartre, among certain circles, eventually led to a reassessment of both Sartre and Marxism. Through Sartre, they discovered a new, dynamic Marxism—one more akin to the twentieth-century interpretations of thinkers like Garaudy (before his ideological shift), Lukács, and Adam Schaff.

Sartre, in prompting this reassessment, guided them toward a Marxism distinct from its orthodox form—what Tarabichi calls «living Marxism.» Sartrean existentialism thus became a catalyst for this rediscovery, culminating in Tarabichi's study, which sought to achieve two goals: a renewed understanding of Marxism and a reevaluation of Sartrean thought, initially misinterpreted.

As Tarabichi explains, «We found in Sartre a critical intellect that challenged Marxism without falling into the traps of the right. We found in him the leftist we aspired to be—a leftist who maintained his leftist convictions without being a communist, and indeed, without even being a Marxist.» Sartre, if only temporarily, fulfilled a need for a generation of defiant rebels, searching for a path to revolution and change—rejecting the prevailing right-wing systems while simultaneously harboring deep apprehensions about Marxism.

the struggles, realities, and aspirations of the region. His positions and writings provided answers to the pressing questions of the time, especially regarding the most urgent issue: the Arab-Israeli conflict, or more precisely, the Palestinian cause. Yet it was precisely here that the tide began to turn against him. Enthusiasm for Sartrean philosophy waned as Arab intellectuals shifted their focus inward, toward self-examination and self-critique—both in their internal dynamics and in their relationship with the Other.

In 2005, Sartre's centenary was commemorated with multiple events. Akhbar al-Adab dedicated a major feature to him, as did al-Qahira, a newspaper published by Egypt's Ministry of Culture, in its July 12 issue of that year. The Supreme Council of Culture in Cairo also organized an international symposium under the provocative title: Existentialists, Leftists, and Zionists. Al-Qahira's special edition featured an interview with Mahmoud Amin al-Alim titled This Is My Explanation for Sartre's Betrayal of the Arabs and His Alignment with Israel. Al-Alim attributed Sartre's stance to the influence of Simone de Beauvoir and Lanzmann—both of Jewish descent—and to the success of Zionist propaganda in marketing the Jewish tragedy. Meanwhile, Kamal Zuhairi argued that Sartre's support for Israel was not his gravest error; rather, his most serious misjudgment was the belief that the Arab left was the only viable force for reconciliation with Israel. Mujahid Abdel Moneim Mujahid, a translator of several Sartre works, examined the roots of Arab intellectuals' fascination with him. The al-Qahira feature also included essays and discussions, most notably an excerpt from Ali al-Samman's Memoirs of My Life, recounting Sartre's visit to Egypt.

2- Jewish Question and Sartre's Contradictions

In Reflections on the Jewish Question, Sartre analyzes anti-Semitism and offers a philosophical justification for Zionism—at the expense of Palestinian rights[10]. He examines anti-Semitism's behavioral, social, and historical dimensions, while

10 - Sartre's book is titled Réflexions sur la question juive, translated into Arabic by Dr. Hatem al-Johari under the title Reflections on the Jewish Question, published by Rawafid for Publishing and Distribution in 2016. (https://m.ahewar.org/s.asp?aid=719575&r=0).

also grappling with the ambiguity of Jewish identity, distinguishing between Jewishness as race and as history. Yet, as noted by Mohamed al-Hilali, Sartre abandoned his critical lens when addressing the Palestinian issue. He did not critique the Zionist project; instead, he defended it, arguing that "Zionism is the answer to the problem of the persecuted Jew." His work provided an unprecedented philosophical endorsement of Zionism.

Sartre posits that the root of the Jewish question lies in the nebulousness of Jewish identity. Jewishness, he argues, provokes social unease: "A Jew is whoever others consider a Jew." He describes the Jew as "a person in a situation"—a concrete individual embedded in specific economic, social, and political conditions. Thus, physical traits do not define Jewishness; it is not a matter of race, for Jews vary in their physical features. Historically, they gradually lost their distinct national and religious characteristics, becoming "an abstract historical community." Without a singular historical reference point, what unites them, he contends, is a "memory of prolonged sorrow" and the hostility they have faced. Since defining Jewish identity through race proves futile, Sartre sees religion—or "the Israeli society"—as its logical basis. Yet he acknowledges that modern nations remain reluctant to integrate Jews, perceiving them as a source of social ills[11].

According to Jawhari, the Arabic translator of Sartre's work, Sartre's existential Zionism underpins his philosophical defense of Israel. He treats the existence of Israel as an undeniable historical reality, dismissing any examination of its origins while ignoring the plight of the Palestinian people. Sartre, Jawhari argues, persecuted, negated, and erased the existential freedom of Palestinians, equating oppressor with oppressed. In his view, the Arab-Israeli conflict is a clash between two victimized groups, one that can only be resolved by accepting two opposing truths: the necessity of a national homeland for the victims of anti-Semitism, and the imperative of securing the Palestinians' right to return. Yet Sartre's focus remained fixed on the stereotyped European Jew.

For Sartre, Israel's existence is an unchallengeable historical given; the only

11 - https://m.ahewar.org/s.asp?aid=719575&r=0

unresolved issue is not the existence of the Palestinian people, but that of Palestinian refugees. As Jawhari observes, Sartre often spoke of Palestinian refugees in exile, yet remained conspicuously silent on those living under occupation. He addressed human rights and humanitarian conditions but never entertained the idea of Palestinian statehood. Perhaps, in his subconscious, he understood the inevitability of conflict between the two entities, leading him to side with his so-called existential Jewishness—as manifested in Zionism on Palestinian land[12].

Sartre's contradictions are further revealed in his rejection of the Nobel Prize in 1964 while simultaneously accepting an honorary doctorate from the Hebrew University of Jerusalem—a gesture whose significance he fully grasped. He justified this by stating:

"I accepted this honorary doctorate to build bridges between the Palestinian people, whom I support, and Israel, my friend."

Indeed, Sartre went even further, declaring:

"The establishment of the Jewish state is the most significant event of our time."

3- Sartre and the Palestinian Cause

This contradiction—an existential perplexity that Sartre claimed was an expression of his neutrality regarding the Israeli-Palestinian conflict—becomes strikingly evident in the positions taken by some of Sartre's most ardent supporters, who had once championed his radical stance on freedom and liberation. Reda Merida provides several examples of this.

In June 1967, five years after Algeria's independence, Algerian students set fire to the works of Jean-Paul Sartre—the same Sartre who had been a great friend of the Algerian revolution. Around the same time, Josie Fanon, widow of the

12 - Nidal Mamdouh, Despite His Involvement in the French Resistance, This Was Sartre's Stance on the Palestinian Cause, al-Dustour, October 2023 ,22: (https://www.dostor.org/4532163). Among Jean-Paul Sartre's works is his book Reflections on the Jewish Question, in which he employed his philosophy to reinforce Zionist illusions under the pretext of the persecution Jews had suffered throughout history.

anti-colonial psychiatrist and writer Frantz Fanon, instructed her late husband's publisher to remove Sartre's introduction to The Wretched of the Earth. "From this moment on," she declared, "we have nothing whatsoever to do with Sartre." Meanwhile, in Iraq, Sartre's books were banned, and Arab intellectuals across disciplines rushed to distance themselves from the philosopher who had once hailed from Paris's leftist sphere. By publicly declaring his solidarity with Israel on the eve of the Six-Day War in 1967, Sartre effectively marked the end of Arab existentialism. His revolutionary stance on liberation struggles was irreparably tainted across the Middle East and North Africa.

Sartre, along with the majority of French intellectuals—both right and left—had supported the establishment of a Jewish state in Palestine. "I have always hoped, and continue to hope," Sartre stated, "that the Jewish question finds a lasting and fundamental solution within the framework of universal humanism, free from geographical considerations. However, since social transformation inevitably involves a phase of national independence, we can only welcome the fact that an autonomous Israeli state has legitimized the hopes and struggles of Jews worldwide."

In the late 1940s, Sartre and Simone de Beauvoir both supported the idea of a Jewish state. At the time, the French left was sympathetic to the Soviet Union, which had initially backed Israel. In 1947, Sartre openly endorsed Zionism during the trial of his former student, Robert Misrahi, who was accused of purchasing weapons for the Stern Gang, a Zionist paramilitary group that sought to seize Palestinian land by force and expel its Arab inhabitants. Sartre defended him, asserting, "It is the duty of non-Jews to help the Jews.[13]"

Nevertheless, as the researcher notes, the Palestinian question became inescapable for Sartre after Algeria gained independence in 1962. He found himself torn between his political convictions and what he termed his "emotional commitment."

13 - https://www.alfalq.com/%D%8B%9D%-86%9D%8AC%D%8A%7D-86%9 %D%8A%8D%88%9D%-84%9D%8B%3D%8A%7D%8B%1D%8AA%D%8B%-1D%88%9 D%81%9 D%84%9D%8B%3D%8B%7D8%9A%D86%9/
https://www.middleeasteye.net/opinion/jean-paul-sartre-and-palestine?disableGlobalInfo Collect=false

Ultimately, he opted for neutrality—a paradoxical stance that he upheld through convoluted and contradictory means. On one hand, Sartre consistently condemned the living conditions of Palestinian refugees and supported their right to return. On the other, he endorsed Israel's existence as a sovereign state. His desperate attempts to maintain this so-called neutrality only plunged him into a profound cultural crisis.

The escalating tensions between Egypt and Israel led to military confrontations in the region, and in France, support for Israel surged in the wake of Sartre's widely publicized journey to Egypt, Gaza, and Israel in March 1967. This pro-Israel sentiment soon morphed into a broader anti-Arab campaign. In this context, Le Monde published a petition in support of Israel, which Sartre signed—an act that unmistakably severed his ties with his Arab allies. Only later would they come to learn that Sartre had signed the petition begrudgingly, loath to do so.

If one seeks further confirmation of Sartre's neutrality—or, rather, the contradictions of the man once hailed as the conscience of his era—his wavering stance from the 1970s onward provides ample evidence. As the Palestinian resistance intensified and extended its struggle to Europe, leftist intellectuals dramatically reassessed their views on Israel. Even Sartre himself eventually went so far as to endorse suicide attacks, stating, "I have always supported counterterrorism against entrenched terrorism, and I have consistently defined entrenched terrorism as occupation, land seizure, arbitrary detention, and so forth." No longer was Israel seen as a besieged island adrift in a hostile Arab sea; rather, it had come to be viewed as a heavily armed cog in the machinery of American imperialism—a relentless force attacking a people already crushed by centuries of Ottoman rule, only to be later subjugated by British colonialism.

To affirm Sartre's neutrality, another incident from June of that same year stands as testament. In a letter to the mother of an Israeli military conscription objector, Sartre insisted that "it would be in the court's best interest to acquit [the defendant], who now faces years of imprisonment for an act both courageous and pragmatic: refusing to serve in an army that began as a force of defense but swiftly adopted

offensive tactics and became an occupying power.[14]"

In the wake of the controversy ignited by his signature, Sartre retreated into silence, later asserting that his stance was "against the impending Six-Day War" rather than opposed to the struggle of Arabs and Palestinians "for freedom and progress." He condemned Israel's use of napalm, branding it "a criminal act," and explained why French public opinion had leaned toward Israel in 1967. According to Sartre, the French position had been clouded by fears of witnessing "a second attempt at the extermination of the Jews" and was also shaped by ignorance of the true realities on the ground. He further declared that "wars of liberation are the only legitimate wars," thereby denouncing Israel's expansionist ambitions and describing the plan to annex Jerusalem as "absolute madness." Finally, he lamented that "powerful reactionary forces" had gained a foothold in Israel, undermining all prospects for peace[15].

Reinforcing Sartre's claim to neutrality, the writer notes that when he received an honorary doctorate from the Hebrew University of Jerusalem in 1976, he declared in his acceptance speech that he would be equally honored to receive the same distinction from Cairo University. In 1979, he organized a symposium to promote peace in the Middle East, inviting both Palestinian and Israeli intellectuals to participate. A year later, on April 15, 1980, Sartre passed away. Now, having heard the case for the defense, we must turn to the witnesses, beginning with one of the invitees who attended Sartre's symposium—the Palestinian intellectual Edward Said.

Hussein Mansour al-Hajj, in his writings on Sartre and the Palestinian cause, affirms that the Middle East conflict—pitting the Zionist state (Israel) against the Palestinian people—is among the world's most pressing concerns. He highlights how this deeply complex issue even unsettled the French philosopher Jean-Paul Sartre, who approached it with a neutrality that was more ethical than political. Mansour argues that Sartre's hesitation was striking, given that he had never

14 - Op. cit.

15 - Ibid.

wavered in taking a firm stance on the major political struggles of his time—except in the case of the Arab-Israeli conflict. His uncertainty was so pronounced that his statements often failed to satisfy either the Arabs or the Israelis. Sartre sought coherence with his lifelong commitment to defending the oppressed wherever they might be, yet he struggled to reconcile this principle when faced with two peoples whom he saw as both victims of oppression, now locked in conflict. He chose neutrality, guided by particular reasons that prevented him from adopting a definitive and committed stance on the issue.

The situation was so fraught that Sartre could not take a clear position without alienating one side or the other. His deep ties to Jewish intellectuals did not preclude his friendships with Arabs, particularly those devoted to progress and socialist aspirations in their nations. Indeed, before the Six-Day War in 1967, Sartre visited Egypt, where he was profoundly impressed by the work of Gamal Abdel Nasser. At the conclusion of his tour, he also visited Israel, yet it seems that Nasser's vision left a deeper mark on him than that of the Israeli leaders. Following these visits, Sartre became nearly convinced that war between Arabs and Israel was inevitable—a belief shaped by his conversations with Nasser. Summarizing the Egyptian leader's perspective, Sartre wrote: "There is a contradiction for which no solution can be found. But resolving it through war does not seem a good solution."

Ultimately, Sartre framed the issue as one of fundamental rights: "The Palestinians possess an unequivocal right to return to their homeland." This right, he argued, was undeniable because "they were expelled and therefore must be allowed to return." At the same time, he acknowledged that Jews, too, had a legitimate right to live in Palestine—but not all Jews, only those born and raised there. Sartre put it plainly: "If I recognize the right of a Jew's grandchild or child to remain in Israel because it is his home and he should not be expelled from it, then, by the same principle, I must also recognize the Palestinians' right to return to that same

home.[16]"

In a 1969 interview with L'Arche, Sartre approached the Arab-Israeli conflict with an idealism that veered toward the utopian. He did not see Israel as the spearhead of American imperialism; rather, he argued that both Israel and the Arab world were victims of "the two great imperialisms—American and Soviet." In Sartre's view, the Middle East conflict was merely an extension of the geopolitical rivalry between these global superpowers. He believed in the eventual dissolution of the Zionist movement and placed his faith in the goodwill of both the Arab and Israeli left. In doing so, he allowed himself to express a vision more hopeful than realistic—a dream of peace in the Middle East that would unite the oppressed, both Arabs and Jews, in a shared struggle for socialist revolution. Such peace, in Sartre's eyes, could only be achieved by integrating Israel's economy within the broader Middle Eastern framework, eliminating the underlying sources of mistrust and hostility.

After Israel's invasion of Lebanon in 1982 and the massacres of Sabra and Shatila—perpetrated with the complicity of Israeli forces alongside certain far-right Lebanese factions—Sartre might well have altered his stance toward Israel. Given the coherence of his thought and the realities of the situation, he could have adopted a more explicit, committed, and consequently more realistic position. In short, Sartre's stance on the Middle East serves as a paradigmatic example of the ambiguities inherent in the ethics of individual commitment[17].

Ahmed Bahaa al-Din sought to clarify where Sartre erred and where he was correct in his analytical book on the Jewish question. In his piece Jean-Paul Sartre and the Jewish Problem (June 23, 2008), he outlined four key points:

16 - Dr. Hassan Mansour al-Haj, Jean-Paul Sartre and the Palestinian Right, last updated: 14:26 – June ,12 22) 2023 Dhu al-Qi'dah 1444 AH).
(https://aawsat.com/%D%81%9D8%9A-%D%8A%7D%84%9D%8B%9D%85%9D82%9/%D8%AA%D%8AD% D%82%9D8%9A%D%82%9D%8A%7D%8AA-%D%88%9D%82%9D%8B%6D%8A%7D8%9A%D%8A%-4793371/7D%83%9D8%9A%D%-81%9D%8AA%D-85%9%D%8AA%D%8B%7D%88%9D8%9A%D%8B%-1D%8AA%D%8B%5D%85%9D8%9A%D%-85%9D%8A%7D%84%9D%8AA%D%88%9D%8B%3D%8B%9D%8A%-9D%8A%7D%84%9D%8AB%D%8A%7D9%84%D%8AB%D%8A%-9D%84%9D%84%9D%85%9D%8B%3D%8AC%D%8AF-%D%8A%7D%84%9D%8AD%D%8B%1D%8A%7D%85%9D9%8F).

17 - Ibid.

1. Sartre greatly exaggerated his analysis, pushing the argument to its limits by attributing the rejection of Jews entirely to the societies in which they lived, holding the entire world accountable—without for a moment considering that the Jews themselves might bear even a partial responsibility for their alienation.
2. Moreover, he described the Jew as perpetually anxious, never at ease in his possessions, unable to trust in the permanence of his social standing, wealth, or power. His history, spanning twenty centuries of wandering and displacement, has conditioned him to be ready at any moment to take up his staff and depart. He can never experience the deep-rooted stability of the Aryan, whose attachment to his land and nation is beyond question.
3. Sartre approached the subject with the tone of a defense attorney, compelled to justify everything, defend everything, and absolve his client of any responsibility, no matter how small.
4. Despite his exhaustive analysis of the Jewish question, Sartre devoted merely a few lines to Zionism, failing to acknowledge that as a racial ideology, it predated Nazism by decades. Had he accorded Zionism its due significance, he would have been forced to subject a significant faction of Jews to the same withering critique he directed at all forms of racial chauvinism. Any study of the Jewish question that ignores the intellectual, political, and historical dimensions of Zionism is necessarily incomplete and biased[18].

This philosopher, committed to liberty and resolute against injustice and oppression, found himself in a state of confusion regarding the Palestinian question. The Jews, who had long endured persecution in the West, were now dispossessing the Palestinians. For the first time in his life, Sartre sought neutrality. Yet this ostensible impartiality did not prevent him from stating that Israel was America's spearhead and that both Israelis and Arabs were victims of the U.S.-Soviet rivalry.

But, as Mohsen Abdel Aziz asks: Had Sartre lived to witness the daily massacres

18 - Ahmed Bahaa al-Din, Jean-Paul Sartre and the Jewish Question. (https://group194.net/article/18299).

and genocide in Gaza, would he still have remained neutral? Certainly not[19].

Progressive—Except on Palestine

In an article for Current Affairs, Ruqayya Zarrouq examines what she calls "Jean-Paul Sartre and the Problem of Being "Progressive Except for Palestine." She highlights how many so-called progressives attempt to remain neutral, walking a tightrope to placate both sides of the conflict. She cites an activist from the campaign for Palestinian human rights, who coined the phrase progressive except for Palestine to describe American leftists who champion racial and economic justice—only to falter when asked to extend their principles to the Palestinian cause[20].

Many Arabs believed that Sartre was trading in moral reparations on behalf of the Zionists. He refrained from expressing an opinion for as long as possible. As the foremost European analyst of anti-colonial liberation struggles at the time, he was under mounting pressure to take a public stand. For Arabs advocating Palestinian liberation, neutrality was untenable. Some hoped his perspective would shift after he witnessed firsthand the dire poverty in the Palestinian refugee camps of Jabalia and Deir al-Balah.

Indeed, following his visit to these camps, Sartre declared publicly: Thanks to your assistance, I have been able to see the Palestinian reality. I would like to express my solidarity with you… I affirm my full recognition of the national right of all Palestinian refugees to return to their homeland[21].

19 - Mohsen Abdelaziz, Sartre and the Palestinian Cause, Tuesday, January 2024 ,23. (https://www.albiladpress.com/news/5579/2024/columns/846477.html).

The existentialist philosopher Jean-Paul Sartre experienced the bitterness of Nazi occupation in his homeland, France, and endured the anguish of imprisonment. This transformed him, in the eyes of many, into a global symbol of liberation—a thinker unwavering in his commitment to the oppressed and marginalized, standing resolutely against colonialism and exploitation.

20 - Ruqayya Zarrouq, Jean-Paul Sartre and the Dilemma of Being Progressive—Except on Palestine. (https://www.alhadath.ps/article/143395).

21 - Ibid.

Arabs expected Sartre to maintain intellectual and political consistency. They hoped he would wield the existentialist and humanist rhetoric he had so often deployed against European oppression in defense of the Palestinian cause. But the outcome, as they saw it, was a bitter harvest.

In 1967, as the region teetered on the brink of war, Sartre's sympathetic judgment was put to the test. At the final stop of his trip to Israel, he and Simone de Beauvoir were moved by the sight of Jews rebuilding their lives. Ashamed of what had befallen Jews in Europe, they were gladdened to see them forging a new socialist existence in Israel. Sartre left the country with a more sympathetic view than the one he had arrived with. Yet the jury was still out: he refused to take a definitive stance, claiming instead to occupy the position of absence—in other words, to have no opinion at all.

Sartre's adherence to neutrality ultimately alienated him from Arab intellectuals. His iconic act of betrayal, in their eyes, was crystallized when he and de Beauvoir signed a pro-Israel statement affirming Israel's sovereignty and right to exist. Though Sartre hoped to remain almost neutral, this gesture was perceived as an unequivocal endorsement of Israel, shattering any illusion that he had stayed above the fray.

When Lotfi al-Khouli accused him of abandoning the Arab struggle after signing the statement on the eve of the Six-Day War, Sartre replied: All I did was take a principled stance against war. I have not wavered in my support for the Arab and Palestinian struggle for freedom and progress[22].

The thinker who framed existentialism as a humanist doctrine turned a blind eye to the concept of "existential justice" and "reciprocal freedom," deliberately ignoring the Israeli occupation of Palestine. He did not address the logic of justice or the Palestinians' right to exist. In his outwardly existentialist framework, he stripped them of their existence, failing to adopt a historical approach to examine the problem and analyze its essence. Instead, he relied on a collection of subjective impressions gathered from personal interviews.

22 - Op. cit.

The philosopher of human freedom willfully blinded himself to his own transgression against the Palestinian people, whom he deprived of their existential liberty. He equated the relationship between Israeli occupiers and Palestinians as a symmetrical struggle between two equally wronged parties. As Dr. Hatem al-Johari points out, Sartre's justification for supporting Israel at the expense of Palestinian rights involved a displacement of time, place, and history. On a spatial level, the Jews were persecuted in Europe—so how could the solution lie in Palestine? Temporally, Jews suffered in Europe throughout the Middle Ages—how could their salvation in the twentieth century come at the expense of the Palestinians? Historically, Jewish political sovereignty in the region had ended more than two thousand years ago—how, then, could this be invoked to justify dispossessing the Palestinians of their land?[23]

A month before the June 1967 war, Sartre and Beauvoir co-signed a statement, alongside 66 other French intellectuals, urging the French to support Israel. The statement argued that Israel was "the only nation whose very existence is being questioned and threatened by Arab leaders" and dismissed the notion that Israel was an imperialist state. It further asserted that "it is incomprehensible to define Israel as part of an imperialist and aggressive camp." In the Arab world, the statement was perceived as a betrayal of both Arab and Palestinian causes. Despite the backlash from Arab intellectuals, Sartre attempted to maintain his ostensible neutrality between Israel and the Palestinians—a stance that angered his Israeli hosts while failing to appease his Arab readers, who saw him as having abandoned the anti-colonial struggle. When war erupted, existentialism swiftly declined in the Arab world, largely due to Sartre's support for Israel[24].

23 - Sartre in Khan al-Khalili: He Slammed the Car Door on Souheil Idriss's Fingers and Denied the Palestinians› Rights.
(https://raseef22.net/article/1087790).

24 - Sartre and de Beauvoir: How the Palestinian Cause Marked the End of Existentialism's Most Famous Duo.
(https://www.ajnet.me/culture/20/3/2020/%D%8B%3D%8A%7D%8B%1D%8AA%D%8B-1%D%88%9D%8AF%D8%9A-%D%8A%8D%88%9D%81%9D%88%9D%8A%7D%8B%-1D%88%9D%8A%7D%84%9D%82%9D%8B%6D8%9A%D%8A%-9D%8A%7D%84%9D%81%9D%84%9D%8B%3D%8B%7D8%9A%D%86%9D8%9A%D%8A9).

Edward Said and Sartre

Edward Said recounts his discussions with Michel Foucault, which ultimately left him disillusioned. Though Foucault had been an intellectual inspiration, Said noted his reluctance to engage in conversations about Middle Eastern politics. "I realized why Michel Foucault hesitated to discuss the Middle East with me," Said recalls. "Soon after publishing some articles on the subject, he quickly distanced himself from it. In the late 1980s, Gilles Deleuze told me that he and Foucault had severed ties due to their disagreements over Palestine—Foucault supported Israel, whereas Deleuze stood firmly with the Palestinian cause. No wonder Foucault avoided discussing the Middle East with me—or with anyone!"

Foucault's stance on Palestine was not unique; many French intellectuals shared his perspective, though there were notable exceptions, such as the historian Pierre Vidal-Naquet, Gilles Deleuze, and Jean Genet, who lived among the Palestinians and wrote Four Hours in Shatila, one of the most moving texts on the Palestinian cause[25].

Said viewed such academic conferences as strategic attempts to penetrate the ranks of anti-colonial intellectuals and dismantle the intellectual resistance against Israel. These seemingly "innocent" gatherings, he argued, aimed primarily to exploit leftist critiques of communist intellectuals in order to silence debate on Palestine. The result was a form of ideological blackmail that made supporting the Palestinian cause synonymous with ideological extremism.

Said was deeply engaged in Palestinian political activism, serving as a member of the Palestinian National Council. Reflecting on a meeting he attended at Sartre's invitation, he observed that the true purpose of the gathering was to consolidate support for Israel—what is now termed "normalization"—rather than to address Palestinian or Arab concerns. "I found myself in the same position as many Arabs before me, trying to convince a leading thinker, such as Sartre, of the importance of our cause, hoping he might become another Arnold Toynbee."

25 - Abdelghani Boumaaza, Failure and Disillusionment: Edward Said's Encounter with Sartre | Athara.

Yet when Sartre was asked to speak, he merely read from a prepared two-page text that made no mention of Palestinians, their tragic past, or the occupied territories. There was no acknowledgment of Israeli settler colonialism, which in many ways mirrored French colonial practices in Algeria. Said was stunned: "I was utterly shocked to see this intellectual hero surrender, in his final years, to a reactionary master. Palestine was an issue of profound moral and political urgency—on par with Algeria and Vietnam—yet he disregarded it entirely."

Sartre never wavered in his support for Israel. His unwavering commitment to Zionism stemmed from a deep fear of being perceived as antisemitic, a lingering guilt over the Holocaust, and an unwillingness to fully recognize Palestinians as victims of Israeli injustice. Or was there another reason? Said confesses, "I will never know. All I know is that in his old age, Sartre was not the same man he once was.[26]"

The Philosopher's Ethical Test

In his study Ethics in the Test of Politics, Abdul Wahab Brahmi examines how Western philosophers have engaged with the Israeli-Palestinian conflict, oscillating between "timid commitment," "supposed neutrality," and "covert support for the stronger party." He argues that there is often a stark disconnect between a philosopher's ideals and their real-world political stances. The Palestinian cause, he contends, remains one of the most critical moral tests of a philosopher's ethical commitment to humanity. At its core, it is a struggle for freedom in its most profound sense—a fight against the oppression of one people by another. Thus, no philosopher can evade their responsibility to confront it, both intellectually and politically.

Sartre epitomizes this ethical contradiction. Renowned for his advocacy of

26 - The Philosopher, Israel, and the Arabs: Edward Said's Encounter with Jean-Paul Sartre, translated by Dr. Zouhair al-Khoweildy.
[Al-Rai] (https://alrai.com/article/788480) – August 2022 ,8.
al-Ahram, Cairo, April 2000 ,19-13.
Edward W. Said, Le Monde Diplomatique, Issue 09, September 2000, pp. 5-4.
(https://www.monde-diplomatique.fr/09/2000/SAID/2409).

humanism, intellectual commitment, and liberation struggles, he ultimately failed when confronted with the Palestinian question. His professed moral principles were tested—and found wanting. In his refusal to take a clear stance on Israel as an occupying power, he embraced a form of false neutrality, presenting himself as a friend to both Palestinians and Israelis alike. But in doing so, he avoided the moral reckoning that true ethical commitment demands[27].

27 - Abdelwahab Brahmi, Ethics in the Test of Politics
Published on November 2023 ,16.
[al-Mothaqaf] (https://www.almothaqaf.com/qadaya/%-972372D%8B%9D%8A%8D%8AF-%D%8A%7D%84%9D%88%9D%87%9D%8A%7D%8A%-8D%8A%7D%84%9D%8A%8D%8B%1D%8A%7D%9%87D%85%9D8%9A-%D%8A%7D%84%9D%8A%5D8%9A%D%8AA%D8%9A%D%82%9D%8A-7%D%81%9D8%9A-%D%8A%7D%8AE%D%8AA%D%8A%8D%8A%7D%8B%-1D%8A%7D%84%9D8%B%3D8%9A%D%8A%7D%8B%3D%8A9).

The Jerusalem Landscape in 2024

Israeli Policies and Practices vs. Arab and Islamic Stances

By Dr. Said Abu Ali
General Supervisor and Editor-in-Chief
of Al-Maqdisiyah Journal

As Israel's relentless campaign of annihilation and destruction continues to ravage Gaza, its criminal machinery has, by the end of this dark year, claimed the lives of over 150,000 martyrs and wounded countless others. The devastation is unfathomable, with over 80% of Gaza's infrastructure obliterated under the weight of more than a thousand tons of explosives—greater in destructive power than the atomic bombs dropped on Nagasaki and Hiroshima. The resulting wreckage, according to UN estimates, will take over a year to clear. The world stands paralyzed, unable to halt any aspect of this catastrophe, including the ruthless starvation campaign—a humiliating indictment of the international community's moral integrity. This siege of death extends beyond Gaza to the West Bank, where the aggression rages on unabated, marked by systematic killings, demolitions, mass arrests, forced displacements, settlement expansion, and the relentless Judaization of Palestinian lands—all sanctioned and declared as official Israeli policy.

Throughout 2024, Jerusalem has borne the brunt of an intensified and expanding campaign of Judaization, with Israeli authorities executing their schemes with near-total impunity. A deafening silence pervades the political and media spheres, as if Jerusalem's isolation and transformation into an Israeli stronghold were a foregone conclusion, barely warranting protest—let alone resistance. The prevailing Arab and Islamic responses remain largely confined to rhetorical stances that underscore a state of impotence rather than offering tangible action. It is precisely this dichotomy—between Israel's escalating measures and the Arab and Islamic world's reactions—that al-Maqdisiyah seeks to examine.

I. Jerusalem Under Israeli Policies and Measures

The Israeli colonial occupation persists in its illegal and internationally condemned actions in Jerusalem, including the forced expulsion of Palestinian residents, home demolitions, and settlement construction. The Apartheid Wall continues to sever the city from its Palestinian surroundings, barring Christian and Muslim worshippers from accessing their holy sites. Systematic efforts to alter Jerusalem's legal status, historical character, and Arab-Islamic identity are

ongoing, driven by demographic reengineering and relentless aggression against sacred sites.

Israeli forces have escalated their violations against al-Aqsa Mosque and other Palestinian religious landmarks, enacting laws to entrench these transgressions. This aggression is part of a broader strategy to erase Palestinian presence in the city—by emptying its historic quarters of their indigenous inhabitants, distorting its heritage, and imposing a fabricated narrative that legitimizes Israeli claims. These acts constitute flagrant violations of international law and numerous UN resolutions, including Security Council Resolutions 252 (1968), 267 (1969), 465, 476, and 478 (1980), as well as Resolution 2334 (2016). These resolutions reaffirm the illegality of Israel's occupation and assert that any attempts to alter Jerusalem's status are null, void, and devoid of legitimacy. The international community must act decisively to overturn these violations.

Israeli colonial forces and extremist settlers have intensified their daily incursions into al-Aqsa Mosque, desecrating its sanctity by performing Jewish religious rites within its precincts. Illegal excavations around and beneath the mosque threaten its structural integrity, advancing Israel's ultimate aim of dividing the site temporally and spatially—an ominous precursor to full Jewish control. Meanwhile, far-right voices grow louder, openly calling for the mosque's destruction and the construction of the so-called Third Temple in its place.

Beyond al-Aqsa, Israeli authorities and settler organizations continue their assault on Christian and Islamic endowments, seeking to seize control over religious properties and restrict access to worshippers. In an affront to global religious communities, these actions threaten to ignite sectarian strife and provoke a wider religious conflict. The occupation's latest encroachments include attempts to take over Christian properties in Jaffa Gate and the Armenian Quarter, as well as the ongoing desecration of Islamic cemeteries, such as the historic Ma'man Allah and al-Yusufiya cemeteries. In a particularly egregious act, Israel has established the so-called "Museum of Tolerance" atop Ma'man Allah Cemetery—desecrating graves over a millennium old in yet another calculated step to erase Jerusalem's

Islamic identity and historical landmarks.

In addition to this, the Israeli colonial occupation has accelerated its relentless attempts to distort historical facts concerning Jerusalem. One such endeavor is the inauguration of the so-called "Jewish Pilgrimage Route," which extends from the Pool of Siloam to the Buraq Wall, running beneath the homes of Palestinian residents in the town of Silwan, south of al-Aqsa Mosque. Furthermore, the occupation authorities have systematically obstructed restoration projects undertaken by the Hashemite Fund and the Jerusalem Awqaf Department within and around the al-Aqsa compound. They have also barred the UNESCO fact-finding team from accessing the Old City and its surroundings, while implementing measures to alter inseparable parts of al-Aqsa Mosque. Among these actions is the imposition of Israeli curricula on Palestinian schools in Jerusalem, alongside numerous other oppressive policies.

The ongoing implementation of illegal policies and measures by the Israeli colonial authorities against Jerusalem—aimed at altering its legal status, character, and demographic composition—is but a fragment of a larger scheme to annex the sacred city. This scheme entails the confiscation of Palestinian properties in the neighborhoods of Silwan and Sheikh Jarrah, the demolition of their homes, and their forced displacement—amounting to a deliberate policy of ethnic cleansing and collective punishment.

Jerusalem thus remains at the heart of the occupation government's strategy, as evidenced by its relentless Judaization projects. Reports from the Palestinian Commission for the Resistance of the Wall and Settlements have documented these violations over the past year, revealing an intensifying campaign of Palestinian displacement. The occupation authorities systematically deny Jerusalemites building permits—particularly young couples—compelling them to seek housing outside the city, in line with Israel's overarching policy of emptying Jerusalem of its indigenous inhabitants to tip the demographic balance in favor of settlers.

Securing building permits in East Jerusalem is exceedingly difficult—if not outright impossible in certain neighborhoods. Faced with an urgent housing

crisis due to natural population growth, Palestinians are left with no choice but to construct homes or expand existing ones. Yet, when they do, the Israeli-controlled municipality seizes the pretext of "unauthorized construction" to demolish these homes, reinforcing a calculated policy of demographic engineering.

Israeli occupation authorities and their arms of Judaization and forced displacement have embedded themselves in every neighborhood of Jerusalem. The strategic plans devised by decision-makers in the relevant occupation institutions are anchored in four key pillars:

I. Home Demolitions, Permit Denials, and Forced Expulsions

Urban planning policies in Jerusalem, orchestrated by the West Jerusalem municipality, the so-called "Israel Land Administration," and the District Planning and Construction Committee, are designed with the following objectives:

- Intensifying the construction and expansion of settler-only housing units while deliberately neglecting and marginalizing Palestinian neighborhoods.
- Reserving the largest possible areas of land for exclusive Jewish settlement, ensuring long-term Israeli control at the expense of Palestinian communities.
- Choking Palestinian residential clusters by restricting their ability to expand, thereby entrenching the housing crisis and compelling residents to relocate outside the city.
- Employing discriminatory and racist planning policies to alter the demographic balance in favor of Israeli settlers.

Although Palestinians constitute 40% of Jerusalem's total population (approximately 395,000 residents in East Jerusalem), they are allocated a mere 13% of the city's land due to Israeli-imposed restrictions.

- Meanwhile, Jewish settlement expansion continues unabated, aimed at fragmenting Palestinian neighborhoods and severing their geographic continuity, facilitating tighter Israeli control.

It is worth noting that Jerusalem, in its entirety, comprises 237,729 housing units, of which only 57,335 are allocated to Palestinian Jerusalemites. According

to future urban plans, an additional 89,000 settler housing units are set to be constructed in the coming years. Notably, these expansion projects make no provision whatsoever for Palestinian residents or Arab neighborhoods.

II. Silwan: The Epicenter of Judaization and Displacement

Silwan, the southern gateway to the Old City and al-Aqsa Mosque, has borne the brunt of Israeli displacement policies. This historic Palestinian town, home to over 61,500 residents across 12 neighborhoods, spans approximately 5,640 dunums. It has become a prime target for Israeli settler organizations and Judaization schemes due to its strategic location as the protective southern flank of al-Aqsa and its unparalleled archaeological and historical significance.

Israeli authorities and settler groups seek to reconfigure Silwan's historical identity, distorting its Islamic and Arab heritage to fit fabricated narratives that align with Zionist expansionist ambitions. By falsifying historical accounts and erasing authentic archaeological evidence, the occupation aims to embed myths that justify its colonial presence while obliterating the indigenous Palestinian history of Jerusalem.

III. Settler Organizations and the Seizure of Silwan

To advance the Judaization of Silwan and facilitate the takeover of Palestinian properties, Israel established the settler organization "Elad"—an acronym for "City of David" in Hebrew, the Zionist name falsely imposed on Silwan. This group oversees most Judaization and settlement projects from al-Aqsa's southern wall, through the Buraq Plaza and Mughrabi Gate, extending to the slopes of Jabal al-Mukabbir. It operates in coordination with Israeli governmental bodies, including the "Nature and Parks Authority" and the "Antiquities Authority," alongside the notorious settler group "Ateret Cohanim," which specializes in seizing Palestinian homes—particularly in the central neighborhoods of Silwan, such as Batn al-Hawa.

Elad has been entrusted with the management of settlement projects, the

expropriation of Palestinian lands and homes, and the control of historical and tourist sites in Silwan. Meanwhile, the West Jerusalem municipality plays a central role in denying Palestinians building permits and systematically demolishing their homes, forcing them out of the city to make way for Jewish settlers.

IV. Systematic Home Demolitions in Silwan

The occupation municipality has issued 6,834 demolition orders—both judicial and administrative—against homes, businesses, and properties in Silwan. At least six of its neighborhoods face the imminent threat of complete destruction, mass displacement, or forced settler takeover. These neighborhoods include:

1- Wadi Hilweh Neighborhood

Nestled in the western and northwestern sectors of Silwan, Wadi Hilweh lies adjacent to the southern wall of the Old City of Jerusalem and al-Aqsa Mosque. Spanning 750 dunams, it is home to 5,000 Palestinian residents. Yet, settler organizations are relentlessly working to Judaize the neighborhood in its entirety. They have altered its name, imposed a fabricated identity upon it, and now refer to it as the "City of David." These organizations, particularly the settler group "Elad," have excavated tunnels beneath the homes of Wadi Hilweh, with the number of excavations reaching 15. As a result, 128 homes now stand on the brink of collapse due to cracks and structural fissures, while five others face the threat of seizure under the pretext of the "Absentees' Property Law." Meanwhile, 53 homes have received demolition orders on the grounds of lacking building permits. The neighborhood is also home to 46 settler outposts.

2- Al-Bustan Neighborhood

At the heart of Silwan lies al-Bustan, covering an area of 70 dunams and sheltering 1,550 residents. Within its confines, 116 homes are under imminent threat of demolition, including 26 cases prosecuted under the so-called "Kaminetz Law," a statute passed by the Israeli Knesset. This law stipulates that any structure built, identified by municipal authorities, or indicted as "illegal construction" after 2016 is subject to demolition without appeal. Homeowners are barred from contesting demolition orders, seeking extensions, or applying for building permits.

In this context, Israeli courts have refused to extend the suspension of demolition orders for homes whose grace period has expired, rendering them legally vulnerable to destruction at any moment. Recently, the Jerusalem municipality has devised an irreversible plan to demolish the entire al-Bustan neighborhood, a decision that cannot be appealed under the Kaminetz Law.

The ultimate goal behind this demolition is to pave the way for a so-called "national park" atop the ruins of al-Bustan. Israeli authorities have already rebranded the neighborhood as "King's Garden" in official records. This year alone, six homes have been razed, and further demolitions have been announced. Fears loom among residents that the municipality may seize the moment—amid global preoccupation with the wars in Gaza and Lebanon—to expedite the eradication of the entire neighborhood.

3- Batn al-Hawa

Batn al-Hawa, a segment of Silwan's central quarter, has become the target of settler claims over 5,200 square meters of land. The neighborhood is home to 86 Palestinian families, comprising 726 individuals, all of whom face the looming threat of eviction and displacement. Despite possessing official documents that validate their ownership, the Israeli courts have ruled in favor of the settlers, granting them legal claim over several properties. As a result, settler organizations have taken over multiple homes, establishing a visitor center to promote settlement expansion. This center has been transformed into a museum dedicated to the so-called "Yemeni Jewish heritage," propagating the false narrative that Yemeni Jewish families once resided here and were expelled by Palestinian residents. According to the occupation's claims, the artifacts and relics showcased in this museum serve as evidence of their historical presence.

4- Wadi al-Rababa

Situated west of Silwan, Wadi al-Rababa extends across 215 dunams and houses 987 residents, 405 of whom face the risk of losing their homes under the pretext of unauthorized construction. The lands of this neighborhood are targeted for seizure, intended to facilitate infrastructure projects for an aerial cable car system.

The occupation—through the so-called "Nature Authority" and the "Elad" settler organization—has initiated several colonial projects in Wadi al-Rababa, including:

- Torah Garden No. 4: A project aimed at confiscating Palestinian lands, preventing their use, and banning construction, particularly as the area lies adjacent to West Jerusalem. This garden is part of a network of biblical-themed parks encircling al-Aqsa Mosque, reinforcing claims of historic Jewish settlements in the First and Second Temple periods.
- "Farm in the Valley" Project: A project launched by the settler organization Elad, seeks to attract more settlers and Jews from around the world, drawing them into agricultural activities on confiscated Palestinian land. The project employs primitive, traditional farming methods meant to mimic eras they claim date back to their ancestors who supposedly lived in Jerusalem. According to their narrative, these ancestors relied on such methods for sustenance, labor, livestock rearing, and the ritual offerings once transported to the so-called Temple Mount (the Hebrew term for al-Aqsa Mosque). Within this fabricated farm, they have installed ancient-style wine and olive presses, attempting to recreate bygone eras. This entire endeavor serves a calculated purpose—indoctrination, the propagation of false historical narratives, and the deliberate falsification of facts. It is an orchestrated attempt to manufacture an artificial connection to the land, fabricating evidence to assert that they once inhabited this region surrounding what they call the Temple Mount.
- Aerial Pedestrian Bridge: A 200-meter-long, 35-meter-high footbridge over Wadi al-Rababa to facilitate settler movement between the "Thawri" area and the Mughrabi Gate.
- Fabricated Graves: In the northern part of Wadi al-Rababa, Israeli authorities have seized 43 dunams to plant fictitious Jewish graves. This strategy aims to expropriate Palestinian lands, halt urban expansion, and justify future settlement projects. These graves are strategically placed between Palestinian homes to preclude their use, while also serving as fabricated evidence of an alleged Jewish presence in the past. Having failed to uncover tangible proof through decades of excavation, the occupation has resorted to such deceptive tactics to manipulate history and distort reality.

5- Wadi Yasul:

Located in the southwestern part of Silwan, Wadi Yasul spans 310 dunams and is home to 1,050 residents. The neighborhood faces mass demolition threats, with 84 homes slated for destruction under the pretext of lacking permits. Consequently, 600 individuals are at risk of displacement. The demolitions serve to expand the so-called "Peace Forest" adjacent to the neighborhood, part of a broader plan to extend the high-speed rail line from coastal cities to West Jerusalem, ultimately linking it with East Jerusalem settlements and the Ma'ale Adumim settlement bloc.

6- Ain al-Louza Neighborhood:

Positioned in southern Silwan, Ain al-Louza covers 870 dunams and houses 3,400 residents. The neighborhood has been issued 283 demolition orders under the pretext of unlicensed construction.

Other Judaization and Settlement Projects by Elad:

- Excavations and Tunnels: A tunnel excavation project, initiated in 2019, extends from the Ain Silwan spring and its historic mosque toward al-Aqsa Mosque. Digging beneath Palestinian homes in Wadi Hilweh Street, these tunnels have caused cracks in over 52 houses. This tunnel is separate from the so-called "Pilgrims' Road," inaugurated by the U.S. ambassador during the Trump administration, though it lies in close proximity.
- The Torah Museum atop Ain al-Adhra—a site of profound historical reverence, long associated with the Virgin Mary, peace be upon her and her son—stands at the very source of the Ain Silwan watercourse. This sacred spring, whose waters have flowed through the ages, tracing an underground path of 533 meters, has now fallen under the grasp of Elad, its legacy seized, its sanctity overshadowed.
- The Umayyad Palaces: Located adjacent to the southern wall of al-Aqsa Mosque, these historic structures are systematically being dismantled to erase their Islamic identity and prepare them as facilities for the so-called Third Temple. The plan includes connecting them to the "Pilgrims' Road" tunnel leading to Ain Silwan.
- Kedem Jerusalem Project: One of the most expansive Judaization schemes, this

project is set to rise near the southern wall of al-Aqsa Mosque, at the northern entrance of Silwan. Spanning 15,600 square meters, it will stand a mere 100 meters from al-Aqsa. The complex will house a biblical museum, a stolen artifacts exhibition, a parking facility, tourist services, and commercial spaces exclusively for settlers. The structure will obstruct the view of al-Aqsa Mosque and intensify settler presence in the area. Elad claims that ten million visitors annually will flock to this colossal complex, which will be linked to the aerial cable car system and subterranean tunnels extending beneath al-Aqsa.

Second: The Responses of Arab and Islamic Stances

In response to colonial and Israeli policies and measures—particularly in the wake of numerous acts of aggression and the declaration of their implementation—Arab and Islamic positions have remained confined within the same traditional framework, devoid of effectiveness and impact. It is as though the horrors of the ongoing war, with their staggering brutality and ability to command public attention, have eclipsed the crimes of the occupation in Jerusalem, rendering the prevailing paralysis and impotence almost justified. Below is a summary of these Arab and Islamic responses.

1. Islamic Responses

The fiftieth session of the Council of Foreign Ministers of the Organization of Islamic Cooperation (OIC), held in Cameroon in August 2024, offered the most comprehensive and encompassing resolutions regarding developments in Jerusalem. These resolutions were grounded in the principles and objectives of the OIC Charter, which explicitly calls for supporting the Palestinian people's struggle against the illegitimate Israeli occupation and enabling them to exercise their inalienable rights, including their right to self-determination and the establishment of an independent, sovereign state with Jerusalem as its capital. The charter further upholds the historical status, Arab-Islamic character, and sanctity of the holy sites in the city.

These resolutions built upon previous decisions of Islamic summits, particularly the

15th Islamic Summit held in Banjul, Gambia, on May 4-5, 2024; the extraordinary Arab-Islamic Summit convened in Riyadh, Saudi Arabia, in November 2023 to address Israeli aggression against the Palestinian people; and the extraordinary session of the OIC Council of Foreign Ministers, held in Jeddah in March 2023, to discuss the ongoing Israeli onslaught. Additionally, they referenced the 7th Extraordinary Islamic Summit in Istanbul, Turkey, in May 2018—demonstrating a continuous accumulation of resolutions tracking Israeli policies aimed at the Judaization of Jerusalem.

As is customary, the OIC resolutions welcomed those adopted by the Arab Summit concerning Palestine and Jerusalem, reaffirming that the issue of Jerusalem lies at the heart of the Palestinian cause. They reiterated that a comprehensive and just peace cannot be achieved without ending the occupation and restoring Jerusalem to Palestinian sovereignty as the capital of Palestine. While endorsing Arab resolutions, the OIC simultaneously reaffirmed all relevant United Nations resolutions, including those of the Security Council and the Tenth Emergency Special Session of the UN General Assembly.

The OIC further reaffirmed the legal opinion issued by the International Court of Justice in July 2004 and the conclusions of the conferences of the High Contracting Parties to the Fourth Geneva Convention of 1949, which affirm the applicability of the Convention to the territory of Palestine, including Jerusalem. It underscored the urgent need for an international protection mechanism for the Palestinian people and their holy sites. Expressing profound condemnation of the escalating Israeli attacks on sacred sites in Jerusalem and other Palestinian cities—including the desecration of religious sanctuaries and the enactment of laws facilitating such violations—the OIC warned of the dire consequences of intensifying aggression against the holy city, its people, and, most notably, al-Aqsa Mosque.

The Council reiterated the centrality of defending Jerusalem as an essential principle of the OIC's mission, reaffirming its Arab-Islamic identity and its status as the capital of the Palestinian state. It urged all member states to adhere strictly to Islamic Summit resolutions by taking measures against any country

that recognizes occupied Jerusalem as the so-called capital of Israel—the colonial occupying power—or relocates its embassy there. These measures include reviewing and restricting relations with such states until they comply with relevant UN Security Council resolutions.

Furthermore, the OIC called upon all states, institutions, and international bodies to uphold UN resolutions affirming that Jerusalem is an inseparable part of the occupied Palestinian territories of 1967. It urged them to refrain from participating in any meetings or activities that serve Israel's colonial objectives of solidifying its occupation of the city. The Council demanded that states abstain from any action that could imply explicit or implicit recognition of Israel's annexation of Jerusalem and from any form of cooperation with the Israeli occupation authorities concerning the city, including agreements that could alter its political and legal status.

These resolutions were issued in response to Hungary, Australia, and the Czech Republic announcing their intention to open trade and diplomatic offices in Jerusalem, in blatant violation of international law and UN resolutions, including Security Council Resolution 478 (1980). The Council condemned these actions, calling upon OIC member states to take all necessary measures to pressure these countries into reversing their decisions and complying with international legitimacy. It also strongly condemned the United States, Guatemala, Kosovo, and others that have relocated their embassies to Jerusalem and recognized it as Israel's capital, viewing these actions as a grave threat to international peace and security, an assault on international law, and an encroachment upon the historical, legal, and natural rights of the Palestinian people.

Expressing deep concern over the announcements by Argentina, Paraguay, and Papua New Guinea regarding their intention to move their embassies to Jerusalem, the Council urged member states to act swiftly to dissuade them from this course, warning that such steps would expose them to legal consequences for violating international resolutions on Jerusalem.

The OIC also called upon the international community to condemn Israel's illegal policies and measures aimed at annexing East Jerusalem. It reiterated the Islamic world's stance on mobilizing all available resources to counter such actions and enforcing political and economic boycotts against states or officials complicit in these violations. It demanded full adherence to all relevant UN resolutions and urged OIC members to sever ties with any entity—official or otherwise—that recognizes Israel's annexation of Jerusalem.

The Council further urged the UN Security Council to fulfill its obligations under the UN Charter by taking decisive action against Israel's escalating war crimes and crimes against humanity, particularly its colonial settlement expansion in occupied Palestinian territories, with a specific focus on Jerusalem. It warned against the continuous assaults by Zionist settler organizations on Islamic and Christian holy sites and condemned violations of the sanctity of Islamic cemeteries. The Council issued its strongest condemnation of Israel's repeated attempts to distort historical truths about Jerusalem, including its inauguration of the so-called "Jewish Pilgrimage Route" and its obstruction of restoration projects carried out by the Hashemite Fund and the Jerusalem Waqf Administration at al-Aqsa Mosque and its surroundings. Additionally, it denounced Israel's imposition of its educational curriculum on Palestinian schools in the city.

The OIC emphasized the necessity of implementing all previous Islamic Summit resolutions in support of Jerusalem and reinforcing the resilience of its Palestinian inhabitants. It urged member states to provide economic assistance to vital sectors in Jerusalem, thereby strengthening the steadfastness of its people.

2. Arab Responses

The resolutions adopted by the League of Arab States—whether at the ambassadorial level, the foreign ministers' level, or the summit level—did not significantly differ in content or structure from those of the OIC. This is primarily because the initial drafts of these resolutions originate from Palestinian initiatives and submissions, whether to the OIC or the Arab League.

Moreover, all Arab states that are members of the Arab League are likewise members of the OIC, and thus their positions on various issues remain identical across both organizations.

The review of the resolution adopted by the Arab League in 2024, across its various decision-making levels, underscores its alignment with the resolutions of the Organization of Islamic Cooperation, albeit within a broader framework encompassing 22 member states in the League and 56 in the OIC. Notably, while this resolution reflects the evolving situation in Jerusalem in real time, it also builds upon the accumulated decisions from previous sessions of the decision-making councils in both organizations, contributing to a process of ongoing refinement and consolidation of past resolutions.

Examining the Arab-level resolution as an integral component of the Jerusalem landscape in 2024, one observes that its formulation—both in form and substance—evolved through successive tiers, from the council at the level of permanent representatives to the Council of Foreign Ministers, culminating in its adoption at the Arab Summit held in Bahrain in May 2024.

A review of the resolution's content, as adopted at the summit, presents a synthesis of the various levels of decision-making as follows:

The Council of the Arab League at the Summit Level:

- Reaffirming all previous resolutions and statements regarding the Palestinian cause and the Arab-Israeli conflict, including those adopted at the summit level—most recently, the resolutions of the Jeddah Summit (32nd session, 2023)—as well as at the ministerial level, most recently the decisions of the 161st session in March 2024.
- Deciding as follows:

1. Reaffirming that East Jerusalem is the capital of the State of Palestine and rejecting any attempt to undermine Palestinian sovereignty over it.
2. Strongly condemning and categorically rejecting all systematic and illegal Israeli policies and plans aimed at legitimizing the annexation of the holy city, altering its Arab identity, changing its demographic composition, restricting its

urban expansion, and isolating it from its Palestinian surroundings—emphasizing that such actions constitute violations of relevant international resolutions.

3. Paying tribute to and supporting the steadfastness of the Palestinian people and their institutions in occupied Jerusalem.

4. Vehemently condemning Israel's ongoing siege on al-Aqsa Mosque, which restricts freedom of worship, allows incursions and desecration by Israeli settlers, and facilitates Talmudic rituals within its precincts—particularly the attempts to alter its historical and legal status, impose temporal and spatial divisions, seize control over the administration of Jerusalem's Islamic endowments, and enforce Israeli law upon it.

5. Denouncing the escalation of systematic Israeli aggression in occupied Jerusalem, including the intensified targeting of civilians, demolitions of homes, and forced displacement of residents, alongside the growing settlement expansion. The resolution calls on the international community to take concrete and deterrent measures against these colonial projects, which violate international law and relevant UN resolutions.

6. Condemning the unprecedented rise in incursions into al-Aqsa Mosque by Israeli officials and extremist settler groups.

7. Strongly condemning Israel's policies, including its unjust judicial rulings and settler-led terror campaigns—backed by the Israeli military and police—designed to forcibly displace Jerusalem's residents as part of an organized campaign of ethnic cleansing and apartheid. The resolution urges the UN and specialized international organizations to assume their legal, ethical, and humanitarian responsibilities to halt this aggression and forced displacement immediately, while establishing effective mechanisms for international protection of the Palestinian people.

8. Calling on member states to support Palestine's efforts at UNESCO to preserve its cultural and historical heritage, particularly in Jerusalem.

9. Demanding the implementation of UN resolutions and those of UNESCO's Executive Board and World Heritage Committee, all of which affirm that the entirety of al-Aqsa Mosque/al-Haram al-Sharif, spanning 144,000 square meters, is an exclusive place of worship for Muslims.

10. Reiterating condemnation of Israel's systematic and illegal measures to weaken Christian presence in Jerusalem, which constitute blatant violations of the

city's established legal and historical status.

11. Condemning Israel's expropriation of Palestinian-owned lands and the unlawful demolition of homes to facilitate settlement expansion inside and beyond the Old City, including the so-called E1 project.

12. Denouncing Israel's systematic efforts to distort and erase the Arab and Islamic culture and identity of Jerusalem—whether through the closure of Palestinian cultural institutions, attempts to appropriate Palestinian heritage, or the manipulation of educational curricula.

13. Rejecting and condemning any unilateral decision that violates the legal status of Jerusalem, including the opening of diplomatic missions in the city—specifically denouncing the prior recognition by the United States of Jerusalem as Israel's capital, the relocation of its embassy there, and similar actions by Honduras, Kosovo, and the Czech Republic.

14. Affirming the commitment of Arab states to taking all necessary political, diplomatic, and economic measures against any country that recognizes Jerusalem as Israel's capital or relocates its embassy there.

15. Urging all states to adhere to UN Security Council Resolutions 476 and 478 (1980) and the UN General Assembly resolution A/RES/ES-10/19 (2017), which declare any actions seeking to alter Jerusalem's status, character, or demographic composition to be legally null and void and call on all states to refrain from establishing diplomatic missions in the city.

16. Endorsing and supporting Palestinian measures against any country that recognizes Jerusalem as the capital of the occupying state.

17. Calling on the international community to pressure Israel to end its widespread policy of house arrest against Palestinian children in Jerusalem and to denounce arbitrary measures including the detention and forced residence of Palestinian dignitaries, as well as the continued closure of national institutions in the city.

18. Urging the implementation of the final statement and outcomes of the High-Level Conference on Jerusalem, held under the theme Steadfastness and Development at the Arab League headquarters on February 12, 2023.

19. Emphasizing the collective Arab and Islamic responsibility toward Jerusalem and urging all Arab and Islamic states, funds, and civil society organizations to translate their support into concrete interventions—ensuring the necessary funding

and investments for development projects within the framework of the 2023–2025 Developmental Intervention Plan for Jerusalem, as presented by Palestine at the High-Level Conference.

20. Requesting the General Secretariat, in coordination with Palestine, to establish a voluntary coordination mechanism within the Arab League, incorporating official charitable entities, investment funds, and private-sector companies designated by member states—alongside Jerusalem-based institutions—to support small and medium-scale development projects that bolster the resilience of Jerusalem's residents, as per the Jeddah Summit Resolution 817 (paragraph 22).

21. Calling on member states to implement the economic and social measures outlined in Resolution 2350 (Article 7) of the Economic and Social Council's 110th session, including fundraising mechanisms such as the optional donation of the smallest currency unit added to fixed and mobile phone bills across the Arab world, with the Islamic Development Bank entrusted with managing these funds.

22. Commending Jordan's role in the guardianship and preservation of Islamic and Christian holy sites in Jerusalem under the Hashemite Custodianship and expressing appreciation for Morocco's leadership of the Jerusalem Committee, Algeria's steadfast support for the Palestinian cause, Saudi Arabia's contributions to Islamic endowments in Jerusalem, and Egypt's historic role in backing Palestine.

23. Urging the international community to pressure Israel to refrain from obstructing Palestinian general elections in occupied East Jerusalem.

24. Encouraging visits to Jerusalem and its Islamic and Christian holy sites to counter Israeli-imposed restrictions on access to al-Aqsa Mosque.

25. Calling on religious institutions, including al-Azhar, to organize conferences and events aimed at preserving the Arab, Islamic, and global consciousness of Jerusalem and its sacred sites.

26. Encouraging Arab capitals to twin with Jerusalem and urging institutions across various sectors to establish partnerships with their counterparts in the city.

27. Recognizing the role of the Arab Parliament and urging similar parliamentary initiatives worldwide.

28. Highlighting the vital role of the media in defending Jerusalem and urging Arab media bodies to amplify the Palestinian narrative and implement the

international media strategy for the city.

This resolution, meticulously structured, reflects an ongoing accumulation of past decisions, yet it lacks enforcement mechanisms—leaving Israel unimpeded in its unilateral policies. The inability of the international system to hold the occupying power accountable underscores a broader failure of international law.
The Arab-Islamic Joint Summit, convened in an extraordinary session in Riyadh, Saudi Arabia, on November 11, 2024, to address the ongoing Israeli aggression against Palestine and Lebanon, its repercussions on the region, and the necessary responses, stands as the latest model of joint resolutions expressing the unified stance of both organizations. It embodies the minimal threshold of Arab and Islamic action to confront the grave challenges and perils besieging the Palestinian cause, including the plight of Jerusalem. The summit's resolution on Jerusalem encapsulated all preceding decisions, serving as a testament to the Arab-Islamic position. Consequently, the summit adopted a resolution that, while not divergent from prior declaratory statements, reaffirmed:

- A vehement condemnation of Israel's aggressive measures targeting Islamic and Christian holy sites in Jerusalem, aimed at erasing their Arab, Islamic, and Christian identity. The resolution called upon the international community to pressure Israel to halt such violations and warned against the continued assaults on al-Aqsa Mosque/al-Haram al-Sharif, including restrictions on worshippers' access, incursions by Israeli settlers, desecration, vandalism, and attempts to alter the site's legal and historical status or impose a temporal and spatial division. It reaffirmed that the entire 144,000-square-meter expanse of al-Aqsa Mosque/al-Haram al-Sharif is an exclusive place of worship for Muslims. Additionally, it underscored that the Jerusalem Awqaf and al-Aqsa Mosque Affairs Administration, under Jordan's Ministry of Awqaf, is the sole legitimate authority overseeing the site's management, maintenance, and access regulation, in accordance with the historic Hashemite custodianship over Jerusalem's Islamic and Christian sanctities.

- A call on the UN Security Council to adopt a binding resolution compelling Israel to cease its unlawful policies that threaten regional peace and security

and to enforce relevant UN resolutions on Jerusalem. It condemned any party's recognition of Jerusalem as Israel's purported capital, deeming such recognition illegal, irresponsible, and an assault on the historical, legal, and national rights of the Palestinian people and the Islamic world. The resolution affirmed that any move to alter Jerusalem's legal status constitutes a grave violation of international law and UN resolutions, requiring immediate annulment. It urged all states that have taken measures undermining Jerusalem's historical and legal status to reverse them and emphasized the need to fortify the resilience of Jerusalem's inhabitants, including through support for the Jerusalem Committee and its executive arm, the Bayt Mal al-Quds Agency.

In light of these considerations, the stark contrast between Israel's executed projects and imposed realities on the ground—fraught with existential threats—and the generalized Arab and Islamic positions becomes evident. While these positions hold significance, they no longer suffice to mount an effective countermeasure against the systematic schemes targeting Jerusalem.

Amid these perilous challenges confronting the entirety of the Palestinian cause, one fundamental question persists, resonating not only within the Arab and Islamic nations but across the world: Until when?

The Many Faces of Jerusalem: From Contradiction to the Celebration of Diversity

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At the Threshold of Inquiry: The Questions of Jerusalem

How did Jerusalem come to be a perennial site of conflict throughout its history? Has the city, across the ages, remained a fractured, fragmented space, where the existence of the other is denied rather than acknowledged? Has there ever been a time when Jerusalem became a haven for celebrating diversity—not on the basis of contest and division, but through shared citizenship? If so, under what conditions did this become possible, and what lessons might be drawn from the past to shape a nonviolent present and future for the city?

How has religion, rather than acting as a unifying force to foster common ground, become a catalyst for conflict—both between different faiths and within the sects of each religion? Why is the Palestinian national identity of Jerusalem continually threatened—targeted by ancient historical claims as well as contemporary religious ones? And why are religious claims repeatedly invoked as a pretext for asserting political sovereignty over the city?

Why, too, do we fail to follow the global precedent that affirms religious rights for diverse communities within a framework of national sovereignty—one grounded in inclusive citizenship that recognizes plurality and seeks to govern it through peaceful means? Can Jerusalem overcome its entangled contradictions to become a city that embraces diversity, manages it peacefully, and honors the globally upheld right to national sovereignty and shared civic belonging?

This paper revolves around these questions and proposes a framework of thought aimed at deconstructing their complexities, in pursuit of a future wherein Jerusalem may flourish as a city that celebrates diversity. It begins with a concise survey of global experiences in navigating the tension between fragmentation and plurality, with particular emphasis on the national and religious dimensions as paradigms of such governance, and the current state of global practice in this regard.

The paper then turns to the case of Jerusalem, examining its manifold identities—

national, religious, social-communal, cultural, and beyond. It explores how these facets manifest through the interwoven intersections and contradictions of al-Quds, Jerusalem, and Yerushalayim. Finally, the paper concludes with a vision for the city's future—one rooted in a peaceful framework for managing its affairs through shared citizenship, inspired by the ideas of the late leader Faisal al-Husseini. His vision is revisited and reinterpreted in light of the developments that have transpired since his passing in 2001.

Managing Fragmentation and Diversity; Navigating the National and the Religious: Where Has the Global Experience Arrived?

Pre-modern societies, whether ancient or contemporary, were characterized by the absence of equal citizenship rights. Consequently, these societies were governed by a complex amalgam of pre-civic structures: organic affiliations—familial, tribal, and clan-based—anchored in blood ties, and post-organic structures—sectarian, regional, factional, and clientelist—shaped by loyalty and dependency in their political, social, and economic arrangements. These societies are often described as patriarchal and post-patriarchal.

Patriarchy in its various forms revolves around the authority of the father figure—the clan chief or tribal leader. Post-patriarchal structures, on the other hand, center around the sectarian head, the sheikh, the village elder, the employer, or the political faction leader, who is often surrounded by zealous partisans (factionalism) or cronies engaged in internal favoritism (clientelism). Political clientelism, in turn, is mirrored by similar dynamics at the social and economic levels. The works of Hisham Sharabi, Halim Barakat, and Paul Salem have elaborated on these societal patterns (Sharabi 1987, 1999; Barakat 1998).

Such organic and post-organic societies exhibit two fundamental traits: the first is patriarchy and male dominance; the second is fragmentation along the very organic and post-organic lines described above. This results in the absence of social cohesion or shared life, producing instead a landscape of disintegration and division—closed circles that seldom interact, foster enmity, and often descend

into internecine conflict.

In these pre-modern societies, diversity—be it social, cultural, religious, or ethnic—is managed in one of two ways, both of which reject the notion of citizenship. The first path suppresses difference and imposes uniformity, often through coercion and the sword. The second allows for diversity but under the dominance of a majority that enforces systems of subjugation upon minorities.

The imposition of uniformity invariably leads to tyranny. In such cases, the political and social order imposes top-down "commonalities" dictated by a leader, sheikh, or elder. When this pursuit of homogeneity is pushed to its extremes under the guise of shared values, diversity is erased (Anderson, 1996). The alternative approach, in which majoritarian dominance prevails, prioritizes the political, economic, social, and cultural control of the majority, silencing minority expressions and enacting laws that place them in a subordinate position.

When applied to the relationship between national and religious identities, the global trajectory has evolved significantly from the medieval period to the modern era. In the Middle Ages, Western systems of governance derived legitimacy from religious authority; kings were subject to the Church, and the Crusades (1096–1291) were waged against Muslims in the name of the cross.

In the Arab and Islamic world, the caliph ruled as God's vicegerent on Earth—a claim contradicted by numerous scholars, including Ali Abdel Raziq, who asserted as early as 1925 that vicegerency belongs to the ummah, not to a singular ruler. Anything else, he argued, is a form of despotism that deviates from the foundational principles of governance in Islam (Abdel Raziq, 2011).

History bears witness to varying forms of Islamic rule: some caliphs governed justly and equitably, extending justice to Muslims and non-Muslims alike. Others operated under what came to be termed the "just despot" model, while some ruled despotically in the manner of Persian emperors, Roman generals, Babylonian tyrants, Egyptian pharaohs, and the likes of Genghis Khan and Timur—rulers

whose methods, as Ruhi al-Khalidi noted in 1908, bore no relation to Islam (al-Khalidi, 1908, p. 69).

Abd al-Rahman al-Kawakibi offered a penetrating analysis of such despotism in his two seminal works: Umm al-Qura and The Nature of Tyranny and the Calamities of Enslavement (al-Kawakibi, 1982, 2007).

Those who ruled with justice ensured that all, Muslims and others, were treated with fairness and dignity. People of the book (ahl al-dhimma) were not only tolerated but were often appointed to the highest ranks within the Islamic administration. Uthamina offers numerous examples, which need not be repeated here (Uthamina, 2000, pp. 138–142).

As for the so-called "just despots," they justified their tyranny under the guise of protecting justice—inflicting oppression upon Muslims and non-Muslims alike. Their cruelty, however, disproportionately targeted Muslims. These same rulers enforced the strictest interpretations of the laws concerning ahl al-dhimma, linking tolerance to their loyalty to the state and their abstention from aligning with foreign powers. Uthamina details these examples (Uthamina, 2000, p. 136).

The matter went beyond punitive measures against Christians accused of sympathizing with the Byzantines. Some despotic rulers extended their oppression to both Christians and Muslims—imposing restrictions on Christian dress, employment, and church construction. Uthamina recounts the ensuing consequences in Jerusalem: enforced tattoos, capitation taxes, and more—culminating in the notorious act of the Fatimid caliph who styled himself "al-Hakim bi-Amr Allah," ordering the destruction of the Church of the Holy Sepulchre in 1007 AD (Uthamina, 2000, pp. 147–151).

This legacy of despotism, and the application of ahl al-dhimma laws, endured in the Arab and Islamic worlds until the promulgation of the Ottoman Nationality Law of 1869. This law established legal equality for all Ottoman subjects regardless of religion, race, gender, or any other basis for discrimination. These principles

were further affirmed in the Ottoman Constitution of 1876 and reaffirmed upon its reissuance in 1908.

This occurred during the age of the scientific and industrial revolutions in Europe—an era that marked the transition from ecclesiastical dominance to the ascendancy of the modern state, founded upon the principle of political equality among male citizens, initially in the rights to vote and stand for election. Gradually, these rights were extended to include women—a development whose details fall outside the purview of this paper.

Within this context, the once-mighty ecclesiastical empire was reduced to the confines of the tiny Vatican State, occupying a fragment of Rome, the capital of Italy. The Church relinquished all political authority over Europe, its jurisdiction henceforth limited to the Vatican, while it retained only spiritual authority over Catholic believers around the world. This spiritual authority no longer entailed political sovereignty, which had now become the domain of the modern nation-state.

What befell the Catholic Church likewise occurred with the Orthodox Church, following the fall of Constantinople to the Ottomans in 1453 and the subsequent transformation of Orthodox Russia into a socialist state after the Bolshevik Revolution of 1917.

This overview reveals that the evolution toward modern nation-states—anchored in equal citizenship—effectively brought an end to the domination of religious institutions over the apparatus of the state in the name of religion. Moreover, it subordinated the religious sphere to the organizational frameworks of the modern state, which guarantees all citizens the freedom of belief and enables them to establish their own religious institutions—be they mosques, churches, synagogues, or others—freely and without state interference, while simultaneously denying religious adherents any claim to political power based on religious precepts.

The Case of Jerusalem

Jerusalem presents a singular exception to this global evolution toward equal and integrated citizenship, and the rejection of sovereignty asserted in the name of religion. Zionism seeks to impose sovereign control over the city, not only on the basis of ancient historical claims, but also through religious claims rooted in the Torah, which are invoked to assert both historical rights and fabricated modern sovereignty.

Zionism is aided in this endeavor by global Christian Zionist evangelical movements, some of which maintain headquarters in Jerusalem—established even before the rise of the Zionist movement itself. These evangelical sects claim, among other things, that the gathering of Jews in Palestine is a prelude to the second coming of Christ and the advent of a thousand years of peace following the battle of Armageddon. These sects, along with their institutions and associations, began arriving in Jerusalem and Palestine as early as the nineteenth century, seeking sites mentioned in the Torah. They were among the earliest proponents of gathering Jews in Palestine and establishing a Jewish kingdom therein, as will be further illustrated. Eventually, these evangelical movements succeeded in attracting segments of European Jewry into the Zionist fold, thus helping to shape the Jewish Zionist movement and its efforts to realize their theological-political ambitions in Palestine.

Meanwhile, the Christian denominations of Jerusalem found a path toward a peaceful resolution of their longstanding disputes over ownership and administration of the Christian holy sites—conflicts that had, until the waning years of Ottoman rule, often turned violent, resulting in fatalities and injuries, as detailed by Arif al-Arif (1992, pp. 363–364). Occasionally, these clashes drew in Ottoman state intervention and sparked tensions between Muslims and Christians, also chronicled by al-Arif (1992, p. 358).

The Status Quo arrangements were instituted by an Ottoman firman issued in 1852 to regulate relations and the administration of Christian holy sites among the various Christian sects—primarily the Orthodox and Catholic communities in Jerusalem and Bethlehem. These regulations were later reinforced by the Treaties

of Paris (1856) and Berlin (1878), which affirmed each sect's right to practice its rituals freely, froze any future claims to ownership of the holy sites, and prohibited any new constructions or alterations to the existing structures by either the Orthodox or Catholic Churches (Salem, 2023, p. 81).

The Status Quo thus created a lasting mechanism for resolving disputes among the Christian churches in Palestine—one that remains in effect to this day. In place of sectarian strife, the Christians of Jerusalem—Orthodox, Catholic, and Evangelical—identify themselves primarily as Palestinians. The Vatican, for its part, no longer asserts any claim to sovereignty over the city in the name of religion. Rather, it has recognized the Palestinian people's right to sovereignty over Jerusalem, while preserving its rights to administer its sacred sites in the city and rejecting Zionist claims to dominion over it.

In 1994, the Vatican and the Palestine Liberation Organization (PLO) exchanged diplomatic recognition, and in 2000, they signed an agreement affirming these positions. In 2015, the Vatican formally recognized the State of Palestine. In a study published by al-Maqdisiyah journal, Raheb (Spring 2024) surveys the positions of various Christian churches on the question of Jerusalem, highlighting their consistent affirmation of Palestinian national rights in the city.

In short, Palestine—through the harmony between its Muslim and Christian populations—has forged its own path toward joining the global experience of managing diversity and resolving inter-sectarian contradictions. Yet, this progress continues to be challenged by the Zionist movement and its allied evangelical currents in the West.

<u>The Identity of Jerusalem: Intersections and Contradictions</u>

I. The National Dimension: The Palestinian National Identity of Jerusalem

A distinct Palestinian identity—encompassing both Palestine and Jerusalem—has existed for millennia (Masalha, 2022; Said and Abu-Lughod, 1986), with

Masalha in particular offering a comprehensive exposition. The modern national identity of Jerusalem, according to the literature, traces its roots to the peasant uprising in Jerusalem and Palestine against the rule of Ibrahim Pasha in 1834 (Kimmerling and Migdal, 1998). Rashid al-Khalidi offers a detailed account of how this identity evolved from that point onward (Khalidi, 1997).

This Palestinian identity has historically embraced the city's Christians, Muslims, and also its Palestinian Jews, who participated fully in all facets of civic life during the Ottoman era. Notably, the Jewish community had representation on the Jerusalem municipal council since its establishment by the Ottomans in 1863, and even earlier, in 1840, on the advisory council of the Jerusalem Sanjak—later the Jerusalem Mutasarrifate—which encompassed the districts of Jerusalem, Hebron, Jaffa, and Gaza. At the time, Bethlehem, Jericho, Ramallah, Lydda, Ramla, al-Majdal, and Beersheba also fell within its jurisdiction under various names, as documented by Scholch based on the 1871 Ottoman Salnameh (Scholch, 1990, pp. 30–31).

The early Zionist movement was met with opposition from the Jews of Palestine, who rejected its colonial character and its overt objective of supplanting the native population—Muslim, Christian, and Jewish alike—with European Jewish immigrants. However, toward the end of the Ottoman era and especially during the British Mandate, some Jews began to gradually align themselves with Zionism, particularly after the dissolution of their Ottoman citizenship. Jacobson and Kark have explored the orientations of Palestine's Jewish population during this transitional period (Kark and Glass, 2004; Jacobson, 2001 & 2004).

While increasing segments of indigenous Jews in Palestine gravitated toward Zionism, Muslims and Christians remained steadfast in their shared national identity, forming joint Islamic-Christian associations from 1918 onward. These associations led to the formation of an executive committee, which emerged from eight national conferences held between 1919 and 1928.

In the wake of the colonial San Remo Conference of April 1920—which separated

Palestine from Syria and granted France the Mandate over Syria in July of the same year, while Britain continued to occupy Palestine—the Third Palestinian National Congress, convened in Haifa in late 1920, resolved that it was imperative to call for the establishment of a national government in Palestine, independent from Syria, to oppose Zionist immigration and land sales, and to work toward ending the British Mandate (Sakhnini, 1986, pp. 85–87).

Throughout the 1930s, Palestinian Muslims and Christians continued their joint struggle, engaging together in political parties and in the Arab Higher Committee, which was formed in 1936 to lead the national resistance. Among its notable Christian figures were Emil al-Ghouri, secretary-general of both the committee and the Palestinian Arab Party led by Jamal al-Husseini; Fouad Saba, who served as the committee's secretary in 1937 and had previously participated in the "National Fund" initiative and the 1932 Palestinian Youth Congress; and 'Izzat Tannous, who played a pivotal role in the committee's conferences with the British government in London, established the Arab Office in London and later for the Arab League, and took part in the 1964 founding conference of the Palestine Liberation Organization in Jerusalem, where he also opened the PLO's New York office.

Another leading figure was George Antonius, author of The Arab Awakening, who served as secretary to the Palestinian delegation at the 1939 Round Table Conference in London and as advisor to the Arab delegations in the same conference (The Interactive Encyclopedia of the Palestinian Question). These names exemplify the many Christian leaders who contributed to the shared Palestinian national struggle for liberation from Zionism and British rule.

From this detailed account, it is clear that Jews were an integral part of Palestinian identity until the end of the Ottoman period. Under the British Mandate, however, large segments of the Jewish population aligned with Zionism due to the intensifying conflict, while a small minority continued to identify as Palestinian. Among them were Ilan Halevi, a member of Fatah who represented the PLO in the Socialist International from the 1980s; Uri Davis, a scholar and thinker who

remains a member of the Palestinian National Council; and, on a popular level, the Neturei Karta movement, which proclaims the Palestinian identity of Palestine, rejects Zionism, and holds a seat on the Palestinian National Council alongside the Samaritan community of Nablus, which also rejects Zionism and its domination over Palestine.

The Palestinian national identity of Jerusalem has faced challenges from the Zionist movement, Western evangelical trends, and other governmental and non-governmental Western actors.

The Zionist movement bases its claims on the ancient presence of Jews in Palestine two thousand years ago, asserting that the Jewish people have preserved an unbroken lineage across generations despite the diaspora. In other words, it is claimed that the Jews who arrived from Southern and Western Europe—initially with support from Jewish billionaires in Europe and America and from global evangelical movements in the early nineteenth century, and later through the Zionist movement at the century's end—represent a direct ethnic continuation of those ancient Jews.

This claim, however, has been refuted by Jewish scholars, notably Shlomo Sand, who demonstrated that the Jews who came to Palestine from Southern and Eastern Europe beginning in the nineteenth century were in fact descendants of the Khazar Kingdom—a Turkic polity that existed between Georgia and the Volga River from the sixth to the eleventh centuries. Thus, there exists no ethnic continuity between these migrants and the Jews who lived in Palestine two thousand years ago (Sand, 2010, p. 305).

Zionism, in its Jewish form, was preceded by a fervent evangelical Zionism, which had emerged from certain Protestant movements across the Anglo-Saxon world—most notably in Britain, the United States, and among the German Evangelicals. As early as the mid-nineteenth century, Prussian Germans had established colonies in Palestine, including two prominent German quarters in Jerusalem (1868) and Haifa (1878), both founded by the German Protestant Templer Society. Other colonies followed: Sarona (1871), Wilhelma (1902), Bethlehem of Galilee (1906), and

Waldheim (1907). In the early twentieth century, parts of these settlements were handed over to the Zionist movement (Salem, 2019, p. 244). Simultaneously, the United States—alongside Mormon and Baptist groups—attempted to establish several colonies, such as Artas (1850), Mount Hope (1853), and Adams (1866), though none of these endured (Salem, 2019, p. 248).

Britain, for its part, chose to support wealthy Jewish magnates in the establishment of early colonies—figures like Moses Montefiore and Edmond de Rothschild—who funded settlements in Jerusalem such as Yemin Moshe, Mea Shearim, and Mishkenot Sha'ananim. Simultaneously, Britain's Christian Zionist statesmen of the nineteenth century—Prime Ministers Salisbury and Disraeli, as well as Lord Shaftesbury—advocated for the creation of a Jewish state in Palestine. These efforts would culminate in the Balfour Declaration of 1917, which called for the establishment of a national home for the Jewish people in Palestine. The declaration was issued by the government of Prime Minister Lloyd George and signed by his Foreign Secretary, Arthur James Balfour—both adherents of the Evangelical stream.

At the same time, the Zionist leader Chaim Weizmann played a pivotal role in persuading U.S. President Woodrow Wilson to support the Balfour Declaration (Al-Sharif, ed., 2019, p. 80), aided in this endeavor by the American Zionist figure Louis Brandeis.

In addition to these political maneuvers, Britain supported the establishment of a Protestant church in Jerusalem—Christ Church, founded in 1841 in collaboration with Germany. Britain also encouraged societies devoted to biblical archaeology in Palestine, such as the London-based Palestine Association for the Study of the Land of Israel (1805) and the Palestine Exploration Fund (1865). German institutions contributed as well, notably the German Protestant Institute of Archaeology (Al-Ja'ba, 2019, p. 49), alongside American ones like the Albright Institute of Archaeological Research, founded in 1900 (Al-Ja'ba, 2019, p. 43). French Catholic societies also engaged in biblical archaeology, including the Franciscan School established in Jerusalem in 1901 and the École Biblique et

Archéologique Française, run by the Dominicans since 1890 (Al-Ja'ba, 2019, pp. 41, 47). All of these institutions were headquartered in Jerusalem.

During the British Mandate, proposals emerged to designate Jerusalem an international city. The 1937 Peel Commission suggested such a plan (Sakhnini, 1986, p. 245), and this vision culminated in the 29 November 1947 United Nations Partition Plan, which prescribed a special international regime for the city (Corpus Separatum). The evangelical current, then, sought not only to Judaize Palestine, but to detach Jerusalem from its Palestinian identity and subject it to international control.

Western diplomacy, thus, endeavored to sever Jerusalem from its Palestinian roots—a strategy the Zionist movement capitalized upon to manufacture a new reality in which the city would appear inherently Jewish. This ambition found fertile ground in British Mandate policies, which systematically redrew Jerusalem's municipal boundaries to exclude Palestinian neighborhoods and incorporate distant Jewish settlements. These manipulations produced an artificial Jewish majority in the city as early as 1922 (Mustafa, 1997, pp. 36, 47).

The Mandate period marked the first systematic attempt to divorce Jerusalem from its Palestinian essence and forge a separate "Jerusalemite" identity. This strategy reemerged after 1967. Following the Jordanian administration of the West Bank and Jerusalem—during which the city was elevated in 1959 to the status of a municipality directly overseen by the Prime Minister and deemed the second capital after Amman—the Israeli occupation of East Jerusalem in June 1967 advanced along two tracks. First, Israeli law was applied to the city as of 28 June 1967. Then, on 30 July 1980, the Knesset passed a law declaring Jerusalem the "unified capital" of Israel. Second, a legal framework was devised to redefine Palestinian Jerusalemites as Jordanian citizens—or later, as "undefined" residents—living under Israeli rule. The aim was to strip them of their Palestinian identity, reclassifying them as a separate category altogether (Salem, 2018).

Despite these machinations, the Palestinian identity of Jerusalemites endured with

vigor. This was most clearly manifested in the annual uprisings between 2014 and 2022—sparked by the brutal murder of the martyr Mohammed Abu Khdeir in 2014—defending the rights of children, the neighborhoods of Sheikh Jarrah and Silwan, the sanctity of al-Aqsa Mosque, and the Christian churches of the city.

Western and Zionist policies, from the nineteenth century to the present day, have engendered a profound identity struggle in Jerusalem: a battle between its original Palestinian character and an imposed Israeli identity. This imposition has taken the form of engineering a Jewish majority in East Jerusalem, camouflaged by the limited naturalization of Palestinians, while the majority have been subjected to home demolitions, evictions, and land seizures to expand Zionist colonies. This has established a relentless cycle of internal displacement, laying the groundwork for eventual expulsion, in line with the "Decisive Plan" proposed by the Zionist right since 2017 (Smotrich, 2017).

Thus, from the nineteenth century to this day, Jerusalem has been transformed into a city of war—with a brief interlude of peace in its eastern sector during the Jordanian era. This state of conflict will not be resolved until the city regains its authentic Palestinian visage, one that embraces diversity and plurality and governs itself in a manner that secures peace and safety for all its inhabitants—those who accept the principles of mutual coexistence, free from domination or aggression.

The Palestinian identity of Jerusalem is inseparable from its Arab essence—for Palestine is an integral part of the Arab nation—and it is likewise bound to its Islamic, Christian, and human dimensions. These facets are not contradictory but mutually enriching, imbuing the city with the depth of its Arab, Islamic, Christian, and universal heritage, as the following exposition shall illuminate.

Secondly: The Religious Dimension—The Rights of the Three Faiths in Jerusalem Between the Established and the Invented

Within academic literature and scholarly research, there is no contention regarding the Christian religious rights in Jerusalem. Indeed, there was an era

in the city's history when it was wholly Christian (Abu al-Nasr & Hazboun, eds., 2023). During this Christian epoch, various civilizations and tribes succeeded one another in Palestine, among them Arab Christian tribes.

Today, the Christian presence in Jerusalem and Palestine comprises numerous denominations. Among the Catholic communities are the Melkite Greek Catholics, the Latin Church, and other Catholic sects including the Syriac Catholics, Armenian Catholics, and more. Alongside them are the Greek Orthodox, other Orthodox communities, and ancient churches representing diverse traditions such as the Syriacs, Armenians, Copts, Ethiopians, and the Maronite Church (Sabella, 2014, pp. 49–57).

The Protestant presence is equally diverse, tracing its origins to the Lutheran Reformation of 1517. It is mainly represented by three principal denominations: the Evangelical Lutheran, the Evangelical Christian, and the Evangelical Episcopal churches. These, in turn, encompass eighteen distinct churches, all of which enjoy theological, doctrinal, and administrative autonomy (Younan, 2023, pp. 224–225). This independence has resulted in notable differences between Palestinian Protestant denominations and their Western counterparts—particularly the Evangelicals who advocate Christian Zionist doctrines. In stark contrast, Palestinian Protestant churches reject these notions, assert their affiliation with the Palestinian people, and express deep pride in this identity. This position is consistently articulated by figures such as Bishop Dr. Munib Younan and Professor Mitri al-Raheb in their writings, interviews, and public engagements.

Another Protestant branch present in Jerusalem traces its theological lineage to the Calvinist reforms of the 1530s. These include the Presbyterian Church and Congregational churches (Younan, 2023, p. 227).

These denominations coexist peacefully in Jerusalem and have resolved their disputes amicably since the end of the Ottoman era. Previously, however, there were tensions—both among Christian sects themselves and between them and the Muslim community—rooted in the organic and post-organic structures

that historically fostered fragmentation and conflict. These sectarian strifes were addressed by Ottoman legal frameworks, particularly the citizenship and constitutional laws that enshrined equality among all Ottoman citizens regardless of religious affiliation. As a result, the mechanisms for conflict resolution gradually shifted from violence to peaceful dialogue—whether among Christians, between Christians and Muslims, or among Muslims themselves.

Yet, despite this general accord, a deep rift remains between the Palestinian Christian sects and the broader Palestinian populace on one side, and the Evangelical and Christian Zionist churches that endorse Zionist control over Palestine on the other.

With the transition from organic and post-organic societies—rife with sectarianism and division—to civic models grounded in citizenship, many of these internal conflicts were mitigated, including in Jerusalem. However, alongside the Muslim-Christian understanding, a new dimension of conflict emerged: a Palestinian (both Muslim and Christian) confrontation with the Zionist presence in Palestine. This opposition, which dates back to the nineteenth century, was predicated on biblical narratives that sought to fabricate religious rights for Jews in Palestine, often with the assistance of Evangelical proponents. One manifestation of this was a 1911 British expedition that searched for the Temple, as documented by Abu al-Shaar based on articles from al-Quds newspaper—edited by Georgie Habib Hanania between 1908 and 1914 (Abu al-Shaar, 2022, pp. 446–465). Another flashpoint was the contentious dispute over prayer rights at the Western Wall in 1928 and 1929, culminating in the 2020 "Deal of the Century." This plan declared al-Aqsa Mosque a sacred space for all three Abrahamic religions, stipulating that "people of all faiths may pray at al-Haram al-Sharif/Temple Mount in a manner that is fully respectful of their religion, taking into account the times of prayer, holidays, and other religious factors" (from Salem, citing the text of the Deal of the Century, 2020, p. 52). The plan also fabricated thirteen Jewish religious sites in the city, as revealed by the Israeli organization Emek Shaveh (Emek Shaveh, 2020).

Hence, one may conclude that since the nineteenth century—especially during

the British Mandate—the most violent religious conflicts in Jerusalem have centered on the struggle between the Palestinian people (Muslims, Christians, and Samaritans) and the Zionist movement and its Christian Zionist allies in the West. Internally, though religious contradictions and sectarian differences persist within Palestinian society, the people have succeeded in establishing peaceful mechanisms for managing these divergences. In other words, Palestinians have transformed what were once sources of fragmentation, division, and violence into a framework of peaceful coexistence. This transformation is paving the way for a comprehensive model of social integration grounded in an embrace of diversity—a diversity that is no longer a source of weakness, but a wellspring of resilience and unity, enabling a shared civic life among the nation's many communities.

Thirdly: The Social Dimension—The Mosaic of Jerusalem's Society

One of Jerusalem's defining attributes is the mosaic nature of its society—a rich tapestry of communities that constitutes a vital source of strength. This diversity has never served to fracture the city. Rather, it has fostered interaction and synergy among its people, despite their varying origins and backgrounds. Nevertheless, this intercommunal interaction remains incomplete. Gaps persist in communication and familiarity among different social groups, with peaceful coexistence often falling short of true integration or shared living.

Yet these existing social fissures pale in comparison to the overarching conflict between the Palestinian people and Zionism—a movement that severed the organic bond between Palestinian Jews (once concentrated in Jerusalem, Safed, Tiberias, and Hebron during the Ottoman period) and their broader society. Zionism manufactured a struggle of dual identities within the city, seeking to displace the historically entrenched Palestinian identity of Jerusalem.

Owing to its global religious significance, Jerusalem has long drawn pilgrims and travelers from across the world. Many chronicled their encounters and impressions of the city, and some chose to remain, becoming part of its social fabric. Thus, alongside its native inhabitants—whose lineages trace back to the city's earliest

days—Jerusalem is home to individuals of Indian, Uzbek, Moroccan, Egyptian, African, Kurdish, Armenian, and European origin, many of whom arrived generations ago and have become integral components of its harmonious mosaic. These communities often define themselves by dual identifiers: referencing both their ancestral homelands and their Palestinian or Jerusalemite identity—or both.

The Armenians, whose numbers in the city and Palestine have dwindled to roughly one thousand (Agabekian, 2022, p. 16), variously identify as Armenian Palestinians or Armenian Jerusalemites. Agabekian elaborates, by name, the pivotal roles Armenians have played in Palestinian politics and society, describing them as inseparable from the national fabric (Agabekian, 2022, pp. 13–27). Some Armenians, however, identify solely as Jerusalemite Armenians, as several personally shared with the author.

A study of one hundred Moroccan-descended families found that 38% identified as Moroccan Jerusalemites, 32% as Moroccan Palestinians, 20% as Palestinian, 6% as Jerusalemite, 1% as Arab, and 3% opted for none of the listed identities (al-Ja'bah, 2021, pp. 8–9, with an introduction by Dr. Mohammad Salem al-Sharqawi). The Dom community, numbering about 1,500 in the city, describe themselves not as Israelis or Palestinians, but simply as Dom (Teller, 2022, p. 90). The rest of the groups, including the African community—numbering approximately 300 residents who inhabit the African Quarter near Bab al-Majlis by the al-Aqsa Mosque—identify as African Palestinians. These individuals once served as guards for Grand Mufti Amin al-Husseini and later participated in the Palestinian national struggle through various factions of the Palestine Liberation Organization (Teller, 2022, p. 98). Similar identity patterns are found among other groups.

Despite the relative variations in how these communities articulate their identities, such differences have not engendered conflict. Rather, they have coexisted peacefully across the ages, cultivating a shared identity and resolving internal disputes through dialogue grounded in mutual recognition and acceptance of diversity. Nevertheless, this pluralism has not yet matured into complete civic

integration, as previously noted.

In contrast to this emerging collective identity—a Palestinian one that embraces diversity and resolves internal conflicts through peaceful means—certain Israeli narratives seek to interpret Jerusalem's social mosaic outside the universal context of diversity found in societies around the world. These narratives deny the existence of a unified Palestinian identity, portraying Jerusalem instead as a mere patchwork of parallel local communities, not as a people with a cohesive national consciousness. They further assert that many of Jerusalem's social groups arrived only at the end of the nineteenth and beginning of the twentieth century, purportedly to forestall a Jewish majority, and lacking any shared national bond (e.g., Gotthiel, 2003).

Historical realities, however, reveal that the modern concept of national borders—where only those residing within fixed boundaries are deemed a "people"—is a relatively recent phenomenon, emerging in Europe with the Treaty of Westphalia in 1648. Prior to this, European societies were open to movement and resettlement. Similarly, in the Arab-Islamic world, successive Islamic states regarded all residents of their vast domains as citizens, free to migrate within the state's territories without restriction. This remained the case until the fall of the Ottoman Empire, whose subjects could relocate freely across its lands.

The Sykes-Picot Agreement of 1916, followed by the British occupation of Palestine and the French occupation of Syria and Lebanon, brought an end to this freedom in the Levant, just as colonial powers had earlier disrupted it elsewhere in the Arab and Islamic world. Nonetheless, the Lausanne Treaty of 1924, signed between Western powers and the Ottoman state, established that those previously under Ottoman rule would become citizens of the newly formed states that succeeded it.

Accordingly, with the British Mandate in place from 1918, former Ottoman subjects residing in Palestine became Palestinian citizens under the 1925 Palestinian Citizenship Law. This law stipulated that all who had held Ottoman

nationality would now be granted Palestinian citizenship. Thus, all those who had arrived in Palestine before that time were recognized as legitimate citizens of the land.

By contrast, a problematic aspect of the British citizenship policy in Palestine lay in its facilitation of Jewish immigration and naturalization—an illegal process that enabled those who came to settle on Palestinian land to be granted citizenship. These settlers, unlike the former Ottoman subjects, were not legitimate residents of the land.

IV. The Cultural Dimension: A Mosaic of Cultural Identities

In 1938, Taha Hussein wrote of Egypt's manifold cultural countenances—Arab, Islamic, European, and Mediterranean (Hussein, 2014). Similarly, Milad Hanna later asserted that Egyptian identity springs from seven cultural wellsprings: Pharaonic, Greco-Roman, Coptic, Islamic, Arab, Mediterranean, and African (Hanna, 1989). A parallel can be drawn with Jerusalem, whose civilizational lineage traces back to the Natufian culture in the northwestern hills of the city during the Epipaleolithic period (14,000–8,000 BCE)—the very culture credited with humanity's earliest discovery of agriculture and the consequent shift to settled life (Adel, 2019). The Natufian civilization was preceded by twenty-seven other cultural stages across historic Palestine (al-Majidi, 2022).

Throughout the epochs of the Eastern Kingdoms, Palestine witnessed the successive dominion of the Assyrians, Babylonians, Persians, Greeks, Romans, Byzantines, and then, from the year 638 CE onward, a succession of Islamic dynasties: the Rashidun, Umayyads, Abbasids, Tulunids, Ikhshidids, Fatimids, and Seljuks, until the Crusader invasions began in 1099 under the banner of the cross. These campaigns persisted until Salah al-Din al-Ayyubi liberated Jerusalem in 1187, ushering in the Ayyubid era which endured until 1250, though it, too, was marked by renewed Crusader incursions that continued until 1291. Thereafter came the Mamluk period (1250–1517) (for details, see: al-Muhtadi, 2020), followed by the Ottoman rule (1517–1917), the British Mandate (1917–1948),

and finally the Jordanian administration (1949–1967).

Jerusalem, then, is the heir to a vast and layered civilizational history in which myriad cultures have converged and intermingled. The contemporary Palestinian—especially the Palestinian of Jerusalem—thus embodies the legacy of these civilizations and their diverse cultures. This lived reality stands in sharp contrast to the Zionist historiography which anchors Jerusalem's history solely in the eras of David and Solomon, or to certain strands of Islamic historiography which limit the city's significance to the Islamic period alone. Both approaches diminish the ancient heritage of Palestine.

Indeed, throughout its many historical phases, Jerusalem has been a city of cultural plurality. In the waning days of Ottoman rule and the early British Mandate, for instance, both Palestine and Jerusalem thrived with intellectual and ideological ferment: Islamic, Christian, Palestinian nationalist, Arab nationalist, Marxist, humanist, and scientific thought all found vibrant expression, as documented in other studies published in al-Maqdisiyah and beyond (Salem, 2024; Salem, 2014). Newspapers of the period bore witness to lively debates on secularism, religion, women's unveiling and veiling, and feminist voices began to assert themselves in writing as well (al-Shomali, 1990). This cultural efflorescence encompassed music, art, photography, theatre, and song—nurtured in part by the influential radio station Huna al-Quds, as chronicled by Nasri al-Jawzi (al-Jawzi, 2010).

Such a portrait directly refutes the Zionist thesis that Palestine was an empty land, or a stagnant and backward society awaiting the civilizing mission of Zionism. Contrary to such claims (Ben Arieh, in al-Ja'ba, 2019, pp. 137–138), a dynamic society with social stratification and a flourishing cultural scene already existed—one that was arrested by the advent of the Zionist movement. The Palestinian people were compelled to divert their energies from cultural development to resisting colonization. The budding seeds of modernity, nourished by internal dynamics since the Ottoman reform era beginning in 1856 (Schulze, 1990), were effectively stifled and replaced by a settler-colonial modernization project imposed for Zionist ends at the expense of the indigenous people (Salem, 2014, pp. 20–22).

The Faces of Jerusalem:
al-Quds, Jerusalem, and Yerushalayim in Contemporary Reality

To grasp the full spectrum of Jerusalem's contemporary manifestations, one must glance back into its origins. The city was born as a Canaanite settlement known as Ursalimum or Ursalem, dedicated to the Canaanite deity Shalim. It is referenced in the Egyptian "Execration Texts" and in the Amarna letters of the nineteenth century BCE. This identity endured until political control was lost in the sixth century BCE with the Babylonian conquest. Notably, no archaeological evidence has substantiated the existence of the so-called "City of David" or "City of Solomon" alleged to have replaced the Canaanite Ursalimum (Nur al-Din, 2022, pp. 167, 169, 181–182). Later, the Romans renamed it Aelia Capitolina, a title that persisted until the Islamic conquest. There is also scholarly doubt regarding whether the city was ever known as "Jebus" before these periods (Nur al-Din, 2022, pp. 173–174).

The name "al-Quds" emerged after the entry of Caliph ʿUmar ibn al-Khaṭṭāb into the city in 636 CE. Initially termed Bayt al-Maqdis, it was later shortened to al-Quds. During the Ottoman period, it came to be known as al-Quds al-Sharif. This nomenclature reflects the city's Arab-Islamic rule and its dual Arab and Islamic identity. In truth, Palestine's Arabness predates its Islamization: Arab tribes migrated to the region before the second millennium BCE, long before the term "Arab" gained its specific cultural definition in the first millennium BCE (ʿUthmana, 2000, p. 2). Some of these tribes adopted Christianity, which itself was born in Palestine during the first century CE. However, it was Islam that ultimately gave the city its current name.

Christianity remained the majority religion in Palestine for three centuries after ʿUmar's entry into Jerusalem (ʿUthmana, 2000, p. 143). Thus, the city maintained a Christian majority—some of whom were Arab—for nearly a millennium before becoming predominantly Muslim in the tenth century, largely due to the settlement of Muslim soldiers and subsequent migrations (ʿUthmana, 2000, pp. 22–30). Christianity did not vanish under Islamic rule; it endured under the

dhimma system until its dissolution with the Ottoman Citizenship Law of 1869.

This historical panorama reveals that Jerusalem's Islamic heritage was preceded by a deep-rooted Christian era, itself built upon a foundation of older civilizations. The city's richness, therefore, resists all exclusive narratives—whether Islamic, Christian, or Arab. It is, instead, an intricate whole: a quintessentially Palestinian city, bearing the imprints of all who have passed through its gates.

It is Zionism alone that seeks to monopolize the city's narrative, reducing it to a solely Jewish heritage rooted in the contested reigns of David and Solomon. Consequently, Zionism—backed by Evangelical fundamentalism—refuses to recognize the rights of any non-Jews in the city. In contrast, the Palestinian narrative embraces the idea that today's Jerusalem is the culmination of all the civilizations and cultures that have shaped it, envisioning a future rooted in shared citizenship and a celebration of diversity.

Muslims and Christians in Palestine are united in their Palestinian identity, their Arabness, and their shared humanist vision that cherishes plurality. They collectively reject the exclusivist appropriation of Jerusalem, a project advanced by both Evangelical and Zionist forces seeking to impose a singular identity on the city while marginalizing its Islamic and Christian heritages.

Evangelicalism, in fact, gave birth to Christian Zionism before Jewish Zionism emerged. It was Evangelicals who cultivated the leadership of the latter from among assimilated Western European Jews, tasking them with organizing the immigration of Eastern and Southern European Jews—communities less integrated into their respective societies. In a 1977 study, Abbas marvels at Theodor Herzl's abrupt transformation from a staunch advocate of Jewish assimilation into European societies to a zealous promoter of Jewish emigration and the establishment of a Jewish state—an endeavor eventually focused on Palestine, though other territories such as Cyprus, Sinai, Argentina, and Uganda had been considered (Abbas, 2011 ed., p. 33). Zionism, then, was superimposed upon Palestine, disrupting its civilizational continuity and instituting an alien framework bent on erasing its

people, history, culture, society, economy, polity, legal order, physical landscape, and collective memory—and replacing them with a Zionist surrogate. This is the aberrant reality now unfolding in Palestine and Jerusalem.

Thus, the pivotal question arises: what conditions must be met to restore Jerusalem to its rightful path as a city of dialogue, cultural encounter, and diversity? The reawakening of Jerusalem's cosmopolitan spirit is far from inevitable—it demands deliberate action and the cultivation of its necessary foundations.

Today, Muslims and Christians in Jerusalem stand united as the city confronts the coercive replacement of al-Quds with Yerushalayim, aided in this process by one face of Jerusalem—namely, its Western incarnation. This "Jerusalem" comprises two broad Western visions. The first does not seek political sovereignty over the city in the name of religion, but instead defends the legitimate right of all Christian denominations to independently manage their holy sites under Palestinian sovereignty. This is the position of the Vatican, the Catholic Church, and other Christian communities in Jerusalem. Politically, this current also supports the Palestinian right to self-determination and the designation of Jerusalem as the capital of a Palestinian state. This vision—shared by both Catholic and other Christian churches—embodies a peaceful coexistence between al-Quds and Jerusalem.

The second Western vision—Christian Zionism—weds Jerusalem to Yerushalayim in a joint endeavor to erase al-Quds, temporarily in favor of Zionism and ultimately for Evangelical Christianity, which anticipates a final showdown at Armageddon. In this eschatological vision, Jews who refuse to convert will be annihilated.

Accordingly, al-Quds stands in fundamental opposition to Yerushalayim. Meanwhile, the two visions of Jerusalem remain split—one aligning with al-Quds and the Palestinian narrative, the other with Zionism. It is noteworthy that the first group within the West also affirms the right of Jews to practice their religion in East Jerusalem without political sovereignty, while maintaining Israel within its pre-1948 borders.

Yerushalayim is a city built on myths—a superimposed identity that seeks to overwrite the existing one, expanding Jerusalem's boundaries at the expense of the 1967-occupied Palestinian territories. This project of reengineering is pursued through coercion and compulsion: demanding loyalty to the Israeli state, displacing those who refuse, or killing those who resist.

In contrast, al-Quds, along with the congruent vision of Jerusalem, advocates a civilized model of peaceful coexistence—one that integrates Israel within its 1948 borders into the regional fabric, respects religious freedoms for all faiths, and reimagines Jerusalem as a global cultural and spiritual center open to all peoples and the adherents of the three monotheistic religions.

Conclusion: From Fraught Contradictions to the Advancement of a Pluralistic Palestinian Jerusalem

In sum, Zionism, with its exclusivist ethos, offers no civilizational vision for Jerusalem—nor do the Evangelicals, whose theological project rests upon gathering all Jews in Palestine, propping up the State of Israel as a precursor to their conversion to Christianity. Those who resist conversion, in this apocalyptic scheme, are to be slain, so that "Evangelical Jerusalem" may supplant the real Jerusalem, along with the spirit of coexistence it has long embodied. Thus, the Zionist and Evangelical projects—though presently allied—form a temporary and opportunistic coalition. Together, they fuel a cycle of perpetual war and bloodshed, seeking first the triumph of a Yeroshalem imposed upon both Jerusalem and its Palestinian people, to be followed by the Evangelical conquest over Zionism and the Jews themselves, in a bid to resurrect an exclusivist Christian Palestine—one that monopolizes Jerusalem and expunges every trace of otherness from its fabric.

In stark contrast, the true civilizational project—one rooted in historical reconciliation—is borne by the custodians of Jerusalem's face, alongside those among the bearers of Jerusalem's many faces. Zionism and Evangelicalism now face a pivotal choice: to persist in their unilateral exclusivity or to relinquish it in favor of shared life, opening the city to the entire world.

Within the details of this envisioned shared life lies the enduring vision of the late Faisal al-Husseini, who proposed that Jerusalem serve as the political capital of two states, while safeguarding freedom of worship for the three Abrahamic faiths. His vision preserved the city's unity between East and West Jerusalem, granting unfettered access to holy sites for all, and restoring the rights of Palestinian Jerusalemites to reclaim their properties in West Jerusalem (Husseini, 1995 and 1998). That vision remains viable today—but its realization depends on developing the means to compel both Zionism and global Evangelicalism to relinquish their monopolistic designs. Should they refuse, the path may shift from the paradigm of an open Jerusalem within a two-state solution, to a struggle for a single, unified state—free from Zionism and Evangelical ambition alike.

Jerusalem may persist as a locus of bloody conflict. Yet within it lies a latent project—a reservoir of potential—that could transform it into a civilizational beacon for all humankind. This is a possibility still within reach.

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The Legal Characterization of the Current Status Quo at al-Aqsa Mosque Under Public International Law

Preliminary Chapter:

The Dialectic Bond Between Jerusalem and al-Aqsa in Islam and the Genesis of the Status Quo Arrangements

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Jerusalem, one of Palestine's largest and most historically significant cities, holds profound religious and political importance. As the capital of the independent State of Palestine, it is revered by Muslims, Christians, and Jews alike. A historical and cultural examination of Jerusalem reveals its deeply rooted Arab identity, with an unbroken connection between the city and the Arab and Muslim worlds. This bond is anchored in its sanctity and its profound place in their faith, history, and collective consciousness. Jerusalem's Islamic heritage is evident in its enduring, ancient sanctuaries. It was the first Qibla—the initial direction toward which Muslims turned in prayer for over sixteen months at the dawn of Islam[1].

In light of the foregoing discussion on the intrinsic bond between the city of Jerusalem and its sanctified enclave, al-Aqsa Mosque, it becomes imperative to delve into the origins of the ensuing arrangements concerning the status quo and their spiritual underpinnings. This necessitates an exploration of two key aspects: first, the governance of Jerusalem under Islamic rule and its administrative divisions; and second, the location and defining landmarks of al-Aqsa Mosque, which form the basis of the regulations governing visitation and prayer within its sacred precincts.

First Aspect: Jerusalem Under Islamic Rule

Since its entry into the Islamic era, Jerusalem has undergone a succession of transformations, particularly in matters of governance and control. Yet, despite these shifts, the city has resolutely preserved its Arab and Islamic identity, as evidenced by its historical landmarks and administrative structures. This necessitates an examination of three key dimensions: the virtues of Bayt al-Maqdis, the Islamic governance of Jerusalem, and the administrative divisions of the city during the Ottoman Caliphate.

The Virtues of Bayt al-Maqdis

1 - Muhammad Yahya Barzuq, Jerusalem: From al-Masjid al-Haram to al-Masjid al-Aqsa, al-Quds Foundation, Beirut, Lebanon, 2003, pp. 31–28.

Al-Aqsa Mosque is the first of the two qiblas and the third of Islam's sacred sanctuaries, alongside which pilgrimages are enjoined. It was the site of the Prophet's Night Journey and Ascension to the heavens. The Divine Word proclaims in the Holy Quran:

"Exalted is He who took His Servant by night from al-Masjid al-Haram to al-Masjid al-Aqsa, whose surroundings We have blessed, to show him of Our signs. Indeed, He is the Hearing, the Seeing.[2]"

Jerusalem has long been the cradle of prophets and divine messengers, a beacon of guidance leading humankind to the worship of the One True God. This reverence stems from Islam's recognition of the sacred legacies of earlier revelations and their noble emissaries. The city houses some of the most illustrious vestiges of Islamic civilization, whose imprints endure despite the vicissitudes of time and the succession of rulers. Foremost among these is al-Aqsa Mosque, also known as al-Haram al-Qudsi al-Sharif, encompassing the resplendent Dome of the Rock, the historic al-'Umari Mosque, and the revered Buraq Wall, where Prophet Muhammad tethered his celestial steed on the night of the Isra and Mi'raj.[3]

Visiting al-Aqsa Mosque and performing prayers within its sacred bounds is a profound act of devotion for Muslims. It is the land of resurrection and gathering, the sanctuary of prophets, and the seat of the Islamic Caliphate in the latter days. Islamic tradition encourages believers to visit al-Aqsa before undertaking the rites of Hajj or Umrah. The Prophet, peace and blessings be upon him, is reported to have said:

"A group from my nation shall always remain steadfast upon the truth, prevailing over their enemies, undeterred by those who oppose them, save for the hardships they endure, until the decree of Allah comes upon them while they remain thus." His companions asked, "O Messenger of Allah, where will they be?" He replied,

2 - Suraht al-Israa, Verse 1.

3 - Khadija Lazhar, The Project of Judaizing the City of Jerusalem in Zionist Thought: Between Theory and Practice, Doctoral Dissertation, University of Algiers 1, Ben Youcef Ben Khedda, Algeria, 2021, p. 15.

"In Bayt al-Maqdis and its environs."

(Reported by Ahmad; al-Haythami classified its narrators as trustworthy.[4])

The Islamic Governance of Jerusalem

Islamic rule over Jerusalem commenced in 638 CE, when Caliph 'Umar ibn al-Khattab personally traveled to the city to receive its keys from the Byzantine Patriarch Sophronius. Upon its surrender, he granted the Christian inhabitants a covenant of safety, known as the 'Umari Pact, which ensured the protection of their lives, property, and religious sites. The document proclaimed:

"This is what the servant of Allah, 'Umar, Commander of the Faithful, grants to the people of Iliyā': He grants them safety for their lives, their wealth, their churches, their crosses, their sick and their healthy, and for the entirety of their religious community. Their churches shall not be inhabited by others, nor shall they be demolished. No part of them shall be diminished, nor their precincts, nor their crosses, nor any of their possessions. They shall not be coerced in their faith, nor shall any harm be inflicted upon them.[5]"

Following the conquest, Caliph 'Umar ordered the reconstruction of al-Aqsa Mosque on the very site from which the Prophet ascended to the heavens. Later, during the Umayyad era, Caliph 'Abd al-Malik ibn Marwan expanded the mosque and erected the magnificent, gilded Dome of the Rock.

Throughout Islamic history, Jerusalem remained an eminent spiritual and scholarly center. The Abbasid Caliph Abu Ja'far al-Mansur visited the city and commissioned extensive restorations of al-Aqsa Mosque. During the Crusades, it fell into the hands of foreign invaders but was liberated by the legendary Ayyubid commander Salah al-Din (Saladin) in 1187 CE. He undertook a sweeping

4 - Narrated by al-Tabarani and Abdullah ibn Imam Ahmad. Al-Haythami stated: «Its narrators are trustworthy.» Majma' al-Zawa'id 288/7.
Husam al-Din 'Affanah, The Book of the Victorious Group's Hadiths, p. 34.

5 - Tarek Azab, Jerusalem... A Struggle and a History, Cairo, al-Ahram Press, 2001, p. [….].

restoration of al-Aqsa, reconstructed its courtyards, and established religious endowments to facilitate pilgrimages.

Under the Mamluks, Jerusalem flourished as a hub of learning and piety. The city saw the construction of numerous madrasas, ribats (hospices), water cisterns, and bustling marketplaces within and around the precincts of al-Aqsa[6].

During the Ottoman era (1517–1917 CE), Sultan Suleiman the Magnificent undertook a grand restoration of Jerusalem, reinforcing the walls of al-Aqsa Mosque and adorning the Dome of the Rock with its iconic turquoise and gold tilework. The city's marketplace thrived as a vibrant commercial center. For five centuries, Jerusalem's sanctity remained unchallenged under Ottoman rule—until the empire's twilight years, when the specter of colonial encroachment loomed over the city[7].

At the turn of the 20th century, Theodor Herzl, the founder of Zionism, sought to persuade Sultan Abdul Hamid II to allow Jewish settlement in Palestine. In return, he offered political support for the Ottoman Empire on the international stage, a cessation of anti-Ottoman propaganda in Europe and America, and a vast financial endowment to the empire, including a personal gift of five million gold liras for the Sultan himself. Yet, Abdul Hamid steadfastly refused, declaring:

"Even if you were to offer me the wealth of the entire world, I would not accept. The land of Palestine is not mine to sell; it belongs to the Muslim Ummah. What was acquired through the blood of our ancestors cannot be relinquished for gold. Perhaps, if my empire should one day disintegrate, you may claim Palestine for free.[8]"

He went further, prohibiting Jewish immigration to Palestine. Herzl made

6 - The Hashemite Custodianship of Islamic and Christian Holy Sites in Jerusalem (2020–1917), White Paper, al-Bayt Institute for Islamic Thought, Amman, 2020, p. 18.

7 - Muhammad al-Dabbagh, Our Land Palestine, Dar al-Huda, 2002, p. 10.

8 - Milad Fouad Abdul Rahman Younis, The Most Notorious Israeli Occupation Attacks on al-Aqsa Mosque – A Critical and Analytical Study of Motives and Objectives (2010–1967), Master›s Thesis, al-Quds University, Jerusalem, Palestine, 2012, p. 43.

repeated visits to Istanbul between 1897 and 1902, but each attempt proved futile. Eventually, the Sultan sent him a final response, which Herzl himself recounted:

"The Sultan bestowed upon me a high-ranking medal of honor, accompanied by a message: 'Inform Dr. Herzl that he should abandon his efforts, for I am not prepared to cede a single inch of this land to others. This land does not belong to me; it belongs to my people, who have drenched its soil with their blood. Let the Jews keep their millions.'[9]"

This brief yet poignant historical survey attests to Jerusalem's unwavering Arab identity, rooted deep in antiquity. From its entry into the Islamic fold, the city has ceaselessly preserved its essence and stature. However, with the dissolution of the Ottoman Empire, it fell prey to Western colonial ambitions and Zionist schemes, culminating in its subjugation under foreign rule—an ordeal that continues to this day.

Administrative Divisions of Jerusalem During the Ottoman Caliphate

Palestine has long been an integral part of Greater Syria, encompassing Palestine, Jordan, Syria, and Lebanon—once a vast, unified geographical entity. Its political fragmentation began in the aftermath of World War I, driven by colonial ambitions and formalized through the Sykes-Picot Agreement[10]. The contours of Palestine, as recognized today, were not firmly delineated until the British Mandate, for throughout the Ottoman era, Palestine remained a part of the provinces of Greater Syria[11].

Due to its strategic and religious significance, Jerusalem was subjected to various administrative divisions within Greater Syria, falling under the jurisdiction of the Province of Damascus. The Ottoman administrative structure of the city evolved considerably, particularly after the major administrative reforms of 1153 AH /

9 - Roger Garaudy, Palestine: The Land of Divine Messages, (n.d.), p. 319.

10 - The Sykes-Picot Agreement was a secret understanding between Britain and France in 1916, orchestrated to partition the Ottoman Empire.

11 - Yusuf Jum'a Salama Salama, The Guide to al-Aqsa Mosque, op. cit., p. 25.

1740 CE. These reforms aligned with the status quo arrangements established in Ottoman decrees of the time. Among the factors influencing these changes was the steadfast Christian—particularly Arab Christian—attachment to Jerusalem's sacred status. However, European powers, especially France, increasingly intervened in Christian affairs, a trend that intensified following the Franco-Ottoman treaty of 1740. This treaty granted France significant privileges, benefiting its affiliated Latin Catholic communities. Consequently, European nations closely monitored Jerusalem's governance, scrutinizing Ottoman-appointed officials. The administrative framework of the city thus became entangled with European interests, as Christian populations were often leveraged as instruments of foreign intervention[12].

Throughout the 19th century, Palestine's administrative structure remained largely unchanged, save for its brief annexation by Egypt from 1831 to 1840, before being reinstated under Ottoman rule. During the Crimean War, Jerusalem's status was elevated, and it was directly linked to Istanbul as a sacred city, earning the designation Hamiat al-Quds (Jerusalem Garrison)[13].

The city's administrative affiliation fluctuated over time due to shifting Ottoman policies, the Egyptian campaign, the weakening authority of Damascus and Acre's governors, and the mounting threats facing Palestine—particularly Jerusalem. To maintain control, the Ottoman state entrusted Jerusalem's governance to both civil and military authorities, with local Jerusalemites playing a role in administration[14]. The city's institutions were organized into three primary divisions:

1. The Civil Administration: At its apex stood the governor-general, wielding the authority to appoint and dismiss officials. His residence was originally within the city walls but later moved beyond them as urban expansion progressed. The governor presided over official ceremonies, conducted field inspections, and oversaw the arrival and departure of Hajj caravans. Given Jerusalem's sacred

12 - Fatimah Salim al-Tarawneh, The Administrative Status of the Holy City of Jerusalem, 2016, p. 1605.

13 - Hussein Ozdemir, Palestine During the Ottoman Era and the Cry of Sultan Abdul Hamid II, 2017, p. 27.

14 - Ziad al-Madani, The City of Jerusalem and Its Environs in the Late Ottoman Era, Amman, 1948, p. 77.

status, a municipal council was also established to manage civic affairs[15].

2. The Religious Administration: A pivotal institution in the Ottoman governance of Jerusalem was the Ministry of Endowments (Awqaf), established in Istanbul in 1826. It supervised Islamic holy sites, mosques, schools, and shrines, while non-Islamic religious endowments remained under the jurisdiction of their respective communities. In 1843, the General Directorate of Awqaf for Jerusalem was founded, led by eminent scholars and jurists[16]. Among them was the city's Qadi (judge), responsible for overseeing religious affairs, including the restoration of al-Aqsa Mosque and managing its financial endowments[17]. Assisting him was the Mufti[18], who played a key role in religious adjudication.

3. The Security Administration: Jerusalem's military divisions included several specialized units. The Jawishiyya served as guardians of al-Aqsa Mosque, while the Jari Bashi oversaw these guards. The Sipahi cavalry comprised elite, well-trained soldiers, many stationed in Jerusalem, while the Janissaries (Ottoman infantry) numbered between 50 and 500 troops[19]. The Ottoman period witnessed significant security transformations, the legacies of which endure to this day. Notably, in 1536, Sultan Suleiman the Magnificent ordered the reconstruction of Jerusalem's city walls, the renovation of al-Aqsa Mosque, and the restoration of its fortress. However, Jerusalem's security remained precarious, particularly in the late Ottoman era, when European powers sought influence over the city's religious sites. One striking example was the 1911 uprising of Jerusalemites against the British-led Montagu Parker expedition, which secretly excavated beneath al-Aqsa Mosque[20] in search of biblical relics—an act met with fierce resistance.

15 - Ameen Abu Bakr, The Organization and Regulation of Waqf Lands in Palestine, Amman, 2004, p. 234.

16 - Adel Manaa, op. cit., p. 22.

17 - Ziyad Al-Madani, op. cit., p. 79.

18 - Aref al-Aref, The Detailed History of Jerusalem, 4th ed., Arab Institute for Studies and Publishing, 2007, p. 28.

19 - Radwan Jamal Muhammad Amr, Security and Protection of al-Aqsa Mosque (2000–1948): A Historical and Documentary Study, Master's Thesis, al-Quds University, p. 20.

20 - Radwan Jamal Muhammad Amr, op. cit., p. 20.

These administrative structures not only defined the city's governance but also underscored Jerusalem's Islamic identity, ensuring the protection of its sacred sites across religious communities. They served as a bulwark for the status quo arrangements, preserving the historical and spiritual integrity of al-Aqsa Mosque and affirming its deep-rooted Islamic character.

Al-Aqsa Mosque

The profound spiritual significance of al-Aqsa Mosque to Muslims is embedded in its very structure, its boundaries, and its sacred landmarks. These elements form the foundation of the status quo arrangements—an enduring framework that safeguards the mosque's sanctity and completeness. These arrangements have persisted for centuries, evolving into a binding legal order that governs al-Aqsa. Understanding this requires a thorough examination of its definition and historical origins (Section I), its most notable features (Section II), and its other significant landmarks (Section III).

I. Definition and Origins of al-Aqsa Mosque

Al-Aqsa Mosque is situated atop Mount Moriah, an ancient name dating back to the Jebusite Arabs. It is also referred to as the Dome Plateau, as it houses the Dome of the Rock, and stands as the highest elevation within Jerusalem. The site is alternatively known as Haram al-Sharif (the Noble Sanctuary) or Jabal Bayt al-Maqdis[21] (the Mountain of the Holy House).

The term al-Aqsa means "the farthest," signifying its distance from Mecca, as referenced in the Quranic account of the Prophet's Night Journey (Isra'). This linguistic nuance places it in contrast with Medina, which, though distant (Qasi), is not the farthest (Aqsa). Thus, the verse in Surat al-Isra alludes to the three most venerated mosques in Islam[22].

21 - Muhasnah et al., The History of Jerusalem, Dar Haneen, Amman, Jordan, 2003, p. 22.

22 - Tafsir al-Tabari, Vol. 15, pp. 30–27.

Al-Aqsa Mosque is the enclosed sanctuary located within the southeastern quadrant of Jerusalem's city walls. Its eastern boundary is contiguous with the city wall, as is much of its southern boundary. The western and northern perimeters, however, are distinct, forming a sacred enclosure within the fortified city itself[23].

This expansive compound includes numerous historic and commemorative structures: the Dome of the Rock, the Qibli Mosque (commonly referred to as al-Aqsa Mosque by the public), the Marwani Prayer Hall, the Old Aqsa, as well as porticoes, domes, fountains, platforms, mihrabs, wells, pools, and arches. The entire site covers approximately 144 dunams, forming an irregular polygon, somewhat resembling a rectangle. While many mistakenly identify al-Aqsa solely as the Qibli Mosque—where the pulpit and main mihrab are located—the term al-Aqsa in fact encompasses the entire sanctified complex[24].

Historical records from the Ottoman-era Sharia Court of Jerusalem, dating back to the 15th century, affirm that the term al-Aqsa Mosque referred to the entire compound enclosed within its walls, including its outer gates, such as Bab al Matarah (The Ablution Gate)[25].

Sheikh Najeh Bkeirat[26] asserts the necessity of defining al-Aqsa Mosque as "a vast expanse of land encompassing approximately one-sixth of the Old City. Its shape is irregularly rectangular, extending across the southeastern edge of

23 -Ahmed Fathi Khalifa, A Guide to the First of the Two Qiblas, al-Aqsa Association Publications, 2001, p. 10.

24 - Hassan Hussein Ayash, Al-Aqsa Mosque and the Dome of the Rock: Their Religious Significance and Esteemed Status in the Hearts of Muslims – A Historical Study, al-Quds Open University Journal for Research and Studies, Issue 18, January 2010, p. 74.

25 - Among the most significant of these documents are:

1. A document dated 1530/11/26, extracted from Register No. 1, Section 1, pp. 504–503, Deed No. 608/148.
2. A document dated 1532/3/7, extracted from Register No. 2, No. 2, Section 1, p. 472, Deed No. 374/85.
3. A document dated 1532/4/9, extracted from Register No. 2, Section 1, Volume 1, p. 344, Deed No. 269/63.
4. A document dated 1532/9/23, extracted from Register No. 2, Section 2, pp. 499–497, Deed No. 976/234.
5. A document dated 1532/10/15, extracted from Register No. 2, Section 2, pp. 715–713, Deed No. 1145/283.

Conference on the Documents of Ownership and the Historical Status of al-Aqsa Mosque: Proceedings and Recommendations, al-Maqdisiyah Journal, Jerusalem Studies Center, al-Quds University, Issue 16, Autumn 2022, p. 288.

26 - The researcher›s interview with Sheikh Najeh Bkeirat, June 2024 ,24, Jerusalem.

Jerusalem. This sacred precinct spans 144,000 square meters, enclosed on all sides by a protective wall. The wall's length measures 474 meters to the east, 490 meters to the west, 383 meters to the south, and 321 meters to the north. Within its boundaries lie numerous edifices, including the Dome of the Rock, the southern prayer hall, the Marwani prayer hall, al-Buraq, the ancient al-Aqsa, as well as an array of platforms, courtyards, schools, minarets, trees, wells, and domes. In essence, everything encircled by this sacred enclosure constitutes al-Aqsa Mosque.[27]" This definition aligns with the consensus of most historians and scholars, who affirm that "al-Aqsa Mosque encompasses everything within its surrounding walls.[28]"

The term ḥaram (sanctuary) is commonly employed to demarcate the boundaries of sacred sites. In Hebron, the name al-Haram al-Ibrahimi designates the revered space of the Ibrahimi Mosque. Likewise, the term al-Haram al-Qudsi al-Sharif has been extensively and frequently used by the people of Jerusalem, the Supreme Islamic Council, the Higher Islamic Commission[29], and the Jerusalem Waqf Administration[30].

The origins of al-Aqsa Mosque trace back to the era of our forefather Adam, peace be upon him. The fundamental evidence for this assertion is found in the divine verse:

"And [mention] when Abraham was raising the foundations of the House along with Ishmael, [saying], 'Our Lord, accept [this] from us. Indeed, You are the All-Hearing, the All-Knowing.[31]'"

27 - Muḥammad ibn Ismāʿīl ibn Ibrāhīm ibn al-Mughīrah ibn Bardizbah al-Bukhārī, Al-Jāmiʿ al-Ṣaḥīḥ, Dār al-Kutub al-ʿIlmiyyah, Beirut, Lebanon, offset edition, Istanbul, n.d., Chapter: «They Walk with a Quickened Pace,» Vol. 2, Part 4, p. 117.

28 - Aḥmad ibn Yaḥyā ibn Faḍl Allāh, Masālik al-Abṣār fī Mamālik al-Amṣār, edited by Aḥmad Zakī Pasha, Dār al-Kutub al-Miṣriyyah, Cairo, first edition, Vol. 1924 ,1, p. 167.

29 - For instance: Statement Document of the Supreme Islamic Council on the Buraq Incidents of 1928, Palestinian Studies Institute, [Online Source] (https://oldwebsite.palestine-studies.org/sites/default/files/%D92.pdf), accessed on November 2024 ,20.

30 - Website of the Jerusalem Waqf Administration, [Online Source] (https://www.awqafalquds.org/ar/about/historical-background), accessed on August 2024 ,20.

31 - Surah al-Baqarah, Verse 127.

Abraham, peace be upon him, merely raised the existing foundations, reinforcing and restoring what had been established long before. His role was one of renovation, not origination[32]. In support of this, Abu Dharr, may Allah be pleased with him, narrated:

"I asked the Messenger of Allah, 'O Messenger of Allah, which mosque was established first on earth?' He replied, 'al-Masjid al-Haram (the Sacred Mosque in Mecca).' **I then asked, 'And which came next?' He said, 'al-Masjid al-Aqsa.' I inquired, 'How much time separated them?' He answered, 'Forty years. Then, wherever you find yourself when prayer is due, perform it, for excellence lies therein.'"** (Authentic, agreed upon[33])

Throughout history, Jerusalem and al-Aqsa Mosque have been known by several distinguished names, including Iliya, Bayt al-Maqdis, al-Masjid al-Jami', and al-Haram al-Qudsi al-Sharif. These appellations underscore its lofty status, unparalleled sanctity, and the wealth of Islamic and historical landmarks it houses.

Section Two:

The Prominent Landmarks of al-Aqsa Mosque

Al-Aqsa Mosque is home to an extensive array of sacred sites that chronicle its veneration and its profound Islamic legacy. The mosque encompasses over two hundred structures and landmarks, each standing as a living testament to its spiritual and historical identity. Among its most significant features are its prayer halls, gates, minarets, domes, and schools.

1. The Prayer Halls of al-Aqsa Mosque

Performing prayer anywhere within the precincts of al-Aqsa Mosque is deemed an act of devotion equal in merit, for all parts of the mosque are sacred. However, al-Aqsa also contains several enclosed prayer halls. Many mistakenly assume

32 - Muḥammad Muḥammad Ḥasan Sharāb, Bayt al-Maqdis and al-Masjid al-Aqṣā, (the place of publication is not specified), 1994, pp. 304–303.

33 - Musnad al-Imām Aḥmad ibn Ḥanbal, verified and annotated by Shuʿayb al-Arnāʾūṭ and others, Muʾassasat al-Risālah, 1st edition, 1996, Ḥadīth No. 241.

that only these structures—such as the Dome of the Rock or the Qibli Prayer Hall—constitute al-Aqsa Mosque. The principal prayer halls within the compound include:

1-The Southern Prayer Hall (al-Qibli Mosque): Reserved primarily for men, this prayer hall is located in the southernmost part of al-Aqsa Mosque. Covering an area of approximately four dunums, it features eleven entrances and can accommodate around 5,500 worshippers[34]. The present structure was built atop an earlier edifice known as the Ancient Aqsa[35].

2-The Dome of the Rock Prayer Hall: The oldest surviving Islamic architectural monument, this magnificent structure was commissioned by the Umayyad Caliph al-Walid ibn Abd al-Malik. Later, Sultan Suleiman the Magnificent ordered its restoration, ensuring its enduring splendor[36].

3-The Marwani Prayer Hall: Situated underground in the southeastern section of al-Aqsa Mosque, this vast hall is one of the mosque's integral components. Its name derives from the Umayyad Caliph Abd al-Malik ibn Marwan. Spanning 4,000 square meters, it has two entrances: a modernized small door to the northwest and grand gates in the northeast, historically referred to as the Gates of Victory[37].

4-The Ancient Aqsa Prayer Hall: Located beneath the Qibli Mosque, this prayer hall extends southeastward on the ground level of al-Aqsa[38]. It remained closed for centuries until its reopening in 1998, following an extensive restoration by the

34 - ʿĪsā al-Qudūmī, Al-Masjid al-Aqṣā: Forty Facts We Are Unaware Of, op. cit., p. 18.

35 - Yūsuf Kamāl Ḥasūnah al-Ḥusaynī, Palestine and the Israeli Aggressions Against Its Islamic Sanctities, al-Nahḍah Ibrāhīmiyyah Center, Palestinian Publishing and Distribution Institution, Jerusalem, Palestine, 2000, p. 27.

36 - Muḥammad Muḥyī al-Dīn al-Anṣārī, This is a Treatise on the Names of Visitation Sites and Maqāms in al-Quds al-Sharīf, al-Makārim Company Press, Alexandria, 1321 AH, p. 6.

37 - Mīlād Fuʾād ʿAbd al-Raḥmān Yūnus, The Most Prominent Israeli Occupation Attacks on al-Masjid al-Aqṣā: A Critical Analytical Study of Motives and Objectives (2010–1967), Master's Thesis, al-Quds University, Jerusalem, Palestine, 2012, p. 19.

38 - One of the gates of al-Masjid al-Aqṣā, located on the southern side, which remains sealed to this day.

Islamic Waqf Administration[39].

5-Other Prayer Halls: Notable among them is al-Buraq Mosque, situated beneath the Moroccan Gate, named after the sacred steed al-Buraq, which Prophet Muhammad, peace be upon him, tethered here during his Night Journey. In the southwestern corner of al-Aqsa Mosque stands al-Maghariba Mosque, now converted into the Islamic Museum. Additionally, Masjid al-Nisa' (the Women's Mosque) once occupied the southern sector, while Masjid Bab al-Rahma and Masjid al-Tawba[40] also form part of the sacred complex.

2. Al-Buraq Wall

The western and southern sections of the mosque's courtyard are of profound significance, as they include al-Buraq Wall (the Western Wall). This wall derives its name from the miraculous event of Isra and Mi'raj, when Prophet Muhammad, peace be upon him, secured his celestial mount, al-Buraq, to it. The wall stands approximately 48 meters in length and 17 meters in height.

Jewish tradition, however, asserts that this wall is the last remnant of what they call the Temple of Solomon[41]. Al-Buraq Wall remains a pivotal religious and historical symbol for Muslims, embodying the intricate political and religious dynamics surrounding Jerusalem and al-Aqsa Mosque. The wall's contested status was central to the historic tensions between Jews and Muslims, particularly during the British Mandate in the early twentieth century.

3. The Gates of al-Aqsa Mosque

The fortified walls of al-Aqsa Mosque house fourteen gates along the northern and

39 - The Administration of Jerusalem Awqāf and Affairs of al-Masjid al-Aqṣā, Official Website: [https://awqafalquds.org/ar/aqsa-landmark/%D%85%9D%8B%5D%84%9D%-89%9D%8A%7D%84%9D%8A%7D%82%9D%8B%5D%-89%9D%8A%7D%84%9D%82%9D%8AF%D8%9A%D85%9], Date of Access: 2024/07/18.

40 - ʿAbdullāh Maʿrūf and Rāfat Marʿī, Atlas of the Landmarks of al-Masjid al-Aqṣā, al-Fursān Publishing and Distribution, 1st Edition, Amman, 2010, pp. 42–41.

41 - Maḥmūd Muṣālḥa, Al-Masjid al-Aqṣā al-Mubārak and the Temple of the Children of Israel, Palestine, 1997, p. 134.

western sides. Some remain open, including Bab al-Asbat (The Tribe's Gate), Bab Hitta (The Gate of Remission), Bab Al-Malik Faisal, Bab Al-Ghawanima (Gate of Bani Ghanim), Bab Al-Nazir (The Inspector's Gate), Bab al-Hadid (The Iron Gate), Bab al-Qattanin (Cotton Merchant's Gate), Bab al Matarah (The Ablution Gate), Bab al-Maghariba (The Moroccan gate), Bab al-Silsila (Chain Street), and Bab al-Sakina (also known as The Double Gate). Others are sealed with stone. Two additional gates stand on the eastern wall[42], including the small Funeral Gate, located near Bab al-Asbat. The southern wall features three entrances: The Double Gate, The Triple Gate—visible from the adjacent Umayyad palaces—and a third, opened by the Crusaders for easier access to the Marwani Prayer Hall[43].

4. The Minarets of al-Aqsa Mosque

Al-Aqsa Mosque is graced with four minarets, all constructed during the Mamluk era. Three adorn the western perimeter of the mosque, while the fourth stands on its northern side. These are:

The Minaret of Bab al-Maghariba
The Minaret of Bab al-Silsila
The Minaret of Bab al-Ghawanima
The Minaret of Bab al-Asbat[44].

Fifth: The Domes of al-Aqsa Mosque

Al-Aqsa Mosque is adorned with a constellation of domes, numbering fourteen in total, crowned by its resplendent jewel—the Dome of the Rock—situated at the heart of the sanctuary, along with the dome of the Qibli Mosque, which stands at

42 - ʿAbd Allāh Maʿrūf and Rā'fat Marʿī, Atlas of the Landmarks of al-Masjid al-Aqṣā al-Mubārak, op. cit., p. 81.

43 - Sheikh Najeh Bkeirat, Al-Fawā'id al-Jamma fī Ziyārat al-Aqṣā wa Mā Ḍammah (The Abundant Benefits of Visiting al-Aqsa and Its Contents), pp. 28–27.

44 - ʿAbd Allāh Maʿrūf and Rā'fat Marʿī, Atlas of the Landmarks of al-Masjid al-Aqṣā al-Mubārak, op. cit., p. 53.

the forefront of al-Aqsa's central prayer hall[45].

Sixth: The Schools of al-Aqsa Mosque

A great number of schools flourished within the precincts of al-Aqsa Mosque, reflecting a distinctive intellectual and cultural movement in Jerusalem, a city of profound historical and religious significance during successive Islamic eras. Many of these schools continue to uphold their scholarly mission to this day, while others have been repurposed into offices, service centers, residences, or other uses. These schools include: al-Ashrafiyya School, al-Bakriya School, al-Tankziyya School, al-Farisiyya School, al-Aqsa Islamic School and Kindergarten, al-Ghardia School, al-Aminiyya School, al-Basitiyya School, al-Manjakiyya School, al-Othmaniyya School, al-Ahmadiyya School, al-Malakiya School, al-Asa'ardiyya School, al-Fakhriyya School, al-Khatuniyya School, al-Nahawiyya School, and al-Duwaydariyya School[46].

Third Section:
The Diverse Landmarks of al-Aqsa Mosque

Al-Aqsa Mosque is home to a vast and varied array of landmarks that narrate its rich history and sacred significance. Among the most prominent of these are:

First: The Prayer Niches (Mihrabs) of al-Aqsa Mosque

Al-Aqsa Mosque houses ten renowned mihrabs, including: the Mihrab of Ali Pasha, the Mihrab of Dawud Pasha, the Mihrab of the Hanafi Imam, the Mihrab of the Marwani Prayer Hall, the Mihrab of the Southwestern Arcade, the Mihrab of Yusuf Pasha, the Ground Mihrab, the Mihrab of the Dome of the Rock Courtyard, the Mihrab of Bab al-Ghawanima, and the Mihrab of the Eastern Wall[47].

45 - Yusuf Jumaa Salama Salama, Guide to the Blessed al-Aqsa Mosque, Quds Net Center for Studies, Media, and Electronic Publishing, Wahba Library, 1st ed., 2011, p. 46.

46 - Yusuf Jumaa Salama Salama, Guide to the Blessed al-Aqsa Mosque, op. cit., p. 50.

47 - Hazem Suleiman, The Blessed al-Aqsa Mosque, op. cit., p. 9.

Second: The Pulpits of al-Aqsa Mosque

Al-Aqsa contains two notable pulpits: the Minbar of Nur al-Din Zenki, also known as the Minbar of Salah al-Din al-Ayyubi, which was tragically set ablaze by the Zionist settler Michael Rohan during the burning of the Qibli Mosque on August 21, 1969; and the Minbar of Burhan al-Din, which stands upon the courtyard of the Dome of the Rock, adjacent to the southern arcade beneath the Dome of the Scale[48].

Third: The Colonnades of al-Aqsa Mosque

The mosque features three colonnades: the Western Colonnade, the Northern Colonnade, and the Eastern Colonnade[49].

Fourth: The Arcades of al-Aqsa Mosque

There are eight arcades in al-Aqsa Mosque, namely: the Eastern Arcade, the Northeastern Arcade, the Northern Arcade, the Northwestern Arcade, the Southwestern Arcade, the Southern Arcade, and the Southeastern Arcade[50].

Fifth: Other Notable Landmarks

Numerous additional landmarks are scattered throughout al-Aqsa Mosque, including: the Maqam al-Arba'in (Shrine of the Forty), the Muezzins' Platform, the al-Aqsa Library, various courtyards, prayer niches, wells, and fountains[51]. Also of note is the Islamic Museum, established by the Supreme Islamic Council in 1923 and reopened to visitors in 1980[52].

The Historical Origins of the "Status Quo" Doctrine

The legal and organizational concept of the "Status Quo" finds its origins in the

48 - Issa Al-Qudumi, Al-Aqsa Mosque: Truth and History, Bayt al-Maqdis Center for Documentary Studies, 18th publication, 2nd ed., 2008, p. 22.

49 - Abdel Hamid Jamal al-Farani, Al-Aqsa Mosque from the Abbasid Caliphate to the Crusader Invasion: An Architectural Descriptive Study, Arab American University Journal for Research, Vol. 2, No. 1, p. 19. Available at: [https://repository.aaup.edu/bitstream/1/1075/123456789/Al-Aqsa20%Mosque20%From20%the20% Period20%of20%the20%Abbasid20%Caliphate20%to20%the20%Crusaders%E20%99%80%2Invasion20% Architectural20%Descriptive20%Study.pdf]. Accessed on July 2024 ,18.

50 - Yusuf Jum›a Salama Salama, Guide to the Blessed al-Aqsa Mosque, op. cit., p. 51.

51 - Muhammad Hashim Musa Ghosheh, The History of al-Aqsa Mosque, op. cit., pp. 123–116.

52 - Abdullah Ma›rouf and Ra'fat Mar'i, Atlas of Landmarks of al-Aqsa Mosque, op. cit., p. 203.

Ottoman era of the fifteenth century. It was codified as a historic legal framework, reinforced by treaties and acknowledged by all the major powers of the time, later receiving formal recognition from the League of Nations—the highest international authority of its era. Subsequently, it was reaffirmed and incorporated into United Nations resolutions, shaping a customary legal doctrine that developed both substantively and procedurally.

The principles underpinning the "Status Quo" thus became entrenched as binding rules of customary international law, obligating any state exercising sovereignty over the Holy Lands to uphold and respect them. Any violation of this framework constitutes an international crime. This legal and historical framework, which has safeguarded the "Status Quo" since its inception in the early Ottoman period, continued to ensure stability under the Jordanian Hashemite custodianship. It remained a formidable legal obstacle to Israeli occupation following the seizure of East Jerusalem in 1967. Israel, through various policies and measures, has since sought to erode this status quo, undermining the Hashemite custodianship of al-Aqsa Mosque.

Accordingly, this study is divided into two sections: the first examines the legal framework governing the "Status Quo" before the Israeli occupation of 1967 (from its inception to its consolidation), while the second explores the post-1967 legal context, focusing on Israel's attempts to dismantle the status quo and overthrow Hashemite custodianship.

to be continued in the forthcoming issues .

Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Request for Advisory Opinion)

International Court of Justice

Written Submission of the League of Arab States

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PART 1: THE QUESTION

1. The question

1. In Resolution A/RES/77/247 on 30 December 2022, the United Nations General Assembly asked the present Court to:

…render an advisory opinion on the following questions, considering the rules and principles of international law, including the Charter of the United Nations, international humanitarian law, international human rights law, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, and the advisory opinion of the Court of 9 July 2004:

(a) Israel's actions since 1967—occupation, annexation, settlements, and discrimination—violate international law and the Palestinian right to self-determination, triggering legal duties for Israel, other states, and the global community.

(b) How do the policies and practices of Israel referred to in paragraph … (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?[1]

2. Question (a) asks what the legal consequences are of three related matters, which are described in question (b) as "policies and practices of Israel":

(1) First, "the ongoing violation by Israel of the right of the Palestinian people to self-determination".

(2) Second, "its [Israel's] prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem".

(3) Third, "its [Israel's] adoption of related discriminatory legislation and measures".

1 - GA Res. 30 ,247/77 December 2022, https://www.un.org/en/ga/77/resolutions.shtml.

3. A determination of the legal consequences of these "policies and practices" requires a determination of two sub-questions:

(1) The first sub-question is, in each case, how, international law has been/is being violated—the question of legality/illegality.

(2) The second sub-question is, in each case, and cumulatively, what the legal consequences of the answer to the first sub-question are for international legal persons legally implicated in the situation.

4. Question (b) asks:

How do the policies and practices of Israel referred to in paragraph … (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?

Paragraph (b) highlights the need for the Court to explicitly assess how Israel's "policies and practices" impact the legal status of the occupation—not merely as background to determining legal consequences (paragraph a), but as a central legal question in its own right.

5. Paragraph (a) presents the third "policy and practice" as intrinsically linked to the denial of Palestinian self-determination and Israel's occupation, settlement, and annexation. The second set of actions draws its legal character from the first; thus, assessing their legality hinges on the foundational violation of the right to self-determination.

6. Paragraph (b) calls on the Court to deliver a comprehensive legal assessment of the occupation of Palestinian territory since 1967—not limited to a single legal domain. This includes evaluating the legality of all three "policies and practices": the denial of self-determination, settlement and annexation (including changes to Jerusalem), and discriminatory laws and measures.

2. Two aspects to the question on legality/illegality of the occupation

2.a. Is the existence of the occupation lawful?

7. The first legality/illegality question is whether the existence of the occupation, in and of itself, has a legal basis. If it does not, then it is existentially illegal. This question falls to be determined according to the law of self-determination and, because the occupation is a use of force, the law on the use of force.

2.b. Is the conduct of the occupation lawful?

8. The second key legal question is whether the conduct of the occupation itself is unlawful. This is assessed under multiple legal frameworks: the right to self-determination (including return), the laws of war, international humanitarian law, human rights law, and prohibitions against racial discrimination and apartheid.

PART 2 : APPLICABLE LAW

3. Introduction

9. The General Assembly requested that the Court render its Opinion …considering the rules and principles of international law, including the Charter of the United Nations, international humanitarian law, international human rights law, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, and the advisory opinion of the Court of 9 July 2004.

This is a request to apply all relevant areas of international law, including, but not limited to, the particular areas of law mentioned.

10. The present Part explains what these areas of law are. It covers certain relevant features of their substantive content. It also explains the position of certain of these rules having jus cogens and erga omnes status.

4. Self-determination

4.a. Introduction

11. The right to self-determination exists in customary international law, is recognized by the UN Charter and is enshrined in international human rights law, in the latter case in common Article 1 of the ICCPR and ICESCR.[2]

4.b. Existence and basis for the right

12. The Palestinian people have a legal right of self-determination. This has been universally accepted and affirmed by States and UN organs as well as the present Court.

13. The Palestinian people have this legal right on two bases.

(1) In the first place, there is a sui generis treaty-based right derived from the provisions of Article 22 of the League of Nations Covenant of 1919 applicable to Palestine as a particular type of Mandate.[3]

(2) In the second place, the right stems from the '(anti-)colonial' basis that became part of customary international law, because of the Palestinian people having been subjected to colonial rule by the British empire, and the continued denial of their ability to exercise self-determination since the creation of Israel in 1948, and the occupation of the West Bank, including East Jerusalem and Gaza since 1967.[4]

14. The right of self-determination of the Palestinian people has two elements, based on the general international legal framework of external self-determination and internal self-determination. It encompasses, in part pursuant to this general framework, a right to return.

4.c. External self-determination

2 - International Covenant on Civil and Political Rights, 16 December 999 ,1966 U.N.T.S. 171 ("ICCPR"), Art. 1; International Covenant on Economic, Social and Cultural Rights, 16 December 993 ,1996 U.N.T.S. 3 ("ICESCR"), Art. 1.

3 - See Ralph Wilde, 'Tears of the Olive Trees: Mandatory Palestine, the UK, and accountability for colonialism in international law', Journal of the History of International Law (2022).

4 - See Ralph Wilde, 'Using the master's tools to dismantle the master's house: international law and Palestinian liberation' 22 Palestine Yearbook of International Law 2021) 74-3), Sections IV-VI and sources cited therein.

15. External self-determination entails a people's right to self-govern free from foreign domination, such as occupation, which inherently obstructs its exercise. Accordingly, the Palestinian people are entitled to the end of such domination, and Israel is legally obligated to end its occupation.,

Every State has the duty to refrain from any forcible action which deprives peoples… of their right to self-determination and freedom and independence.[5]

16. Particular features of this right to be free/obligation to enable such freedom, or, put differently, the right for the occupation to be terminated/the obligation to terminate the occupation, are as follows:

(1) It operates and exists simply and exclusively by virtue of the Palestinian people being entitled to it. It is not, therefore, something that depends on anyone else agreeing to it, whether Israel, or any State, organization or entity, etc. It is a right.

(2) The anti-colonial form of external self-determination adopted in international law in the first half of the 20th Century, applicable to the Palestinian people, was a repudiation of the concept of 'trusteeship over people'.[6]According to this concept, people were, ostensibly, potentially to be granted their freedom by colonial authorities only if and when they were deemed 'ready', ostensibly because of their stage of 'development', by those authorities. The anti-colonial self-determination rule, which was the international legal basis for recognizing decolonization, constitutes a repudiation and removal of this approach, replacing it with an automatic right. The new rule was and is rooted in the basic entitlement of people to freedom, not 'readiness' or reaching a certain stage of development. In the words of the United Nations General Assembly in Resolution 1514(XV) of 1960, 'inadequacy of preparedness should never serve as a pretext for

5 - Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, GA Res. 2625 (XXV), 24 October 1970 ("Friendly Relations and Co-operation Declaration").

6 - See Ralph Wilde, International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away (OUP 2008), Ch. 8, Sec. 8.5.

denying independence'.[7] Furthermore, the right operates regardless of whether the authority depriving the people of their ability to exercise self-rule agrees to relinquish control.

(3) Necessarily, then, this form of 'freedom'—the end of external control—is to be realized immediately and automatically, without preconditions, such as standards, of whatever character, having to be met first.

(4) This fundamental character of self-determination, when compared to other considerations that do not share this fundamental character, is reflected in the way that it has jus cogens—non-derogable—status in international law: it takes precedence over other rules of international law (which would be most of them) that do not have the same status. Thus, the United Nations Human Rights Council, in Resolution 49/28 of 11 April 2022, emphasised "that this jus cogens norm of international law [self-determination as vested in the Palestinian people] is a basic prerequisite for achieving a just, lasting and comprehensive peace in the Middle East".[8]Jus cogens is addressed further below in the present Part.

4.d. Internal self-determination

17. This right ensures equal treatment for individuals and groups, particularly regarding group identity, in states where they hold citizenship (e.g., Palestinian citizens of Israel). It includes protection from discrimination and the enjoyment of rights tied to their identity, covered under international human rights law, including non-discrimination, political rights, and the rights of minorities and indigenous peoples.

4.e. Right of return

4.e.i. General position based on the right of self-determination

18. The Palestinian people, individually and collectively, have a legal right to return to their homes and land. The right to return is integral to the right of self-

7 - GA Res. 1514 (XV), 14 December 1960, para. 3.

8 - Human Rights Council Res. 11 ,28/49 April 2022, preamble, para. 7

determination itself.

4.e.ii. Affirmations by the UN General Assembly and Security Council

19. The right to return of Palestine refugees has been repeatedly affirmed by the UN General Assembly since 1948.

20. In Resolution 194 (III), 11 December 1948, passed in the context of and relating to the Nakba at the time of 1948, the General Assembly resolved that:

…refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage

to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.[9]

In Resolution 3236 (XXIX), 22 November 1974, the General Assembly recognized "the inalienable right of Palestinians to return to their homes and property from which they have been displaced and uprooted and calls for their return". [10] In Resolution 35/169, 15 December 1980, the General Assembly reaffirmed "the inalienable right of the Palestinians to return to their homes and property in Palestine, from which they have been displaced and uprooted, and calls for their return".[11]

4.e.iii. As a matter of other areas of human rights law (human rights law generally is addressed further below)

21. Art. 12(4) of the ICCPR states that "[n]o one shall be arbitrarily deprived of the right to enter his own country".[12]The term "his own country" is broad. It is not limited to a State where the individual has citizenship. For example, it has been understood to apply to "nationals of a country who have there been stripped of

9 - GA Res. 194 (III), 11 December 1948, para. 11.

10 - GA Res. 3236 (XXIX), 22 November 1974, para. 2.

11 - GA Res. 169/35 (A), 15 December 1980, para. 5.

12 - ICCPR, Art. 4)12).

their nationality in violation of international law, and of individuals whose country of nationality has been incorporated in or transferred to another national entity, whose nationality is being denied to them". [13] Indeed, as the present Court held in the Nottebohm case, "nationality" is a relationship to a State more capacious than formal citizenship. [14] It comprises factors such as an individual's "family ties" and "attachment shown to him for a given country and inculcated in his children". [15] The term "enter" is broader than the term "return", indicating that an individual need not have been present in historic Palestine in the past. [16] Therefore, it is possible to "enter" one's own country for the first time, indicating that Palestinian people who have never been to historic Palestine have the right to enter it.

22. Israel has the duty to ensure the right of return for Palestinian refugees on a non-discriminatory basis. According to Article 5(d)(ii) of the ICERD, States must …eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of … [t]he right to leave any country, including one's own, and to return to one's country. [17]

5. The law on the use of force

23. The occupation is, in the terminology of international law, a 'use of force', and its existential legality therefore falls to be determined in part by the application of the law on the use of force (a.k.a. the jus ad bellum), including the prohibition on aggression.

6. The law of armed conflict (LOAC) including occupation law, including the prohibition on implanting settlements

24. The legality of the conduct of the occupation falls to be determined by the law of armed conflict (LOAC), also referred to as the jus in bello, international

13 - Human Rights Committee, General Comment 27, CCPR/C/21/Rev.1/Add.2 ,9 November 1999, para. 20.

14 - Nottebohm Case (second phase), Judgment of April 6th, I.C.J. Reports 1955, p. 4 at p. 22.

15 - Ibid

16 - Kathleen Lawand, 'The Right to Return of Palestinians in International Law,' (8 ,(1996 International Journal of Refugee Law p. 533, at p. 547.

17 - International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 660 ,1966 U.N.T.S. 195 ("ICERD"), Art. 5.d.ii.

humanitarian law (IHL), and the laws of war, including the law of occupation. In the case of occupation law in particular, Israel is a party the fourth Geneva Convention, and so is Jordan, Egypt, Lebanon, Syria and the State of Palestine. [18] Whereas it is not party to the fourth 1907 Hague Convention, the present Court considered in the Wall Advisory Opinion, that "the provisions of the Hague Regulations have become part of customary law". [19]

25. One key stipulation of occupation law relevant to the present case is the prohibition of implanting settlers into occupied territory. Under Article 49, paragraph 6 of the fourth Geneva Convention of 1949, "[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". [20] In the words of the ICRC:

This means that international humanitarian law prohibits the establishment of settlements, as these are a form of population transfer into occupied territory. Any measure designed to expand or consolidate settlements is also illegal. Confiscation of land to build or expand settlements is similarly prohibited.[21]

26. The term 'transfer', therefore, includes settlement that is voluntary on the part of the individuals involved. In the Wall Advisory Opinion, the present Court observed that the provision

prohibits not only deportations or forced transfers of population…but also any

18 - Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 6 ,1949 U.S.T. 75 ,3114 U.N.T.S. 31 ("GC I"); Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 6 ,1949 U.S.T. 75 ,3217 U.N.T.S. 85 ("GC II); Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 6 ,1949 U.S.T. 75 ,3316 U.N.T.S. 135 ("GC III"); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 6 ,1949 U.S.T. 75 ,3516 U.N.T.S. 287 ("GC IV"). ICRC, Databases for State Parties to GC I, II, III, IV, (listing Israel as a State Party, signed 8 Dec.1949; ratified 6 July 1951). Available respectively at: https://ihl-databases.icrc.org/en/ihl-treaties/gci1949-/state-parties?activeTab=default; https://ihl-databases.icrc.org/en/ihl-treaties/gcii1949-/state-parties?activeTab=default; https://ihl-databases.icrc.org/en/ihl-treaties/gciii1949-/state-parties?activeTab=default; https://ihl-databases.icrc.org/en/ihl-treaties/gciv1949-/state-parties?activeTab=default.

19 - Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 136 at p. 172, para. 89.

20 GC IV, Art. 49, para. 6.

21 - International Committee of the Red Cross ("ICRC"), "What does the law say about the establishmentof settlements in occupied territory?", 5 Dec. 2010, available at: https://www.icrc.org/en/doc/resources/documents/faq/occupation-faq051010-.htm.

measures taken by an occupying Power in order to organize or encourage transfers of parts of its own population into the occupied territory. [22]

27. The Security Council has urged "Israel, as the occupying Power, to abide scrupulously" by the Fourth Geneva Convention, and "to desist from taking any action which would alter the legal status, geographical nature, and demographic composition of the Arab territories occupied since 1967, including Jerusalem, particularly refraining from transferring parts of its own civilian population into the occupied Arab territories."[23]

7. International human rights law (IHRL)

7.a. Generally, and applicability extraterritorially, and in times of war

28. Israel is bound by human rights law obligations in treaty law and customary international law. [24] As affirmed by the present Court in the Wall Advisory Opinion in connection to the ICCPR, ICESR and CRC in particular, Israel's human rights

22 - Wall Advisory Opinion (2004), p. 183, para. 120.

23 - SC Res. 22 ,446 March 1979, para. 1.

24 - The following is a list of treaties ratified by, and therefore binding on, the State of Israel: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1465 ,1984 U.N.T.S. 85 ("CAT") (ratified by Israel on 3 October 1991); Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1249 ,1979 U.N.T.S. 13 ("CEDAW") (ratified by Israel on 3 October 1991); Convention on the Political Rights of Women, 31 March 193 ,1953 U.N.T.S. 135 ("CPRW") (ratified by Israel on 6 July 1954); Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 78 ,1948 U.N.T.S. 277 ("Genocide Convention") (ratified by Israel on 9 March 1950); Convention on the Rights of the Child, 20 November 1577 ,1989 U.N.T.S. 3 ("CRC") (ratified by Israel on 3 October 1991); Optional Protocol to the Convention on the Rights of the Child, on the involvement of children in armed conflict, 25 May 2173 ,2000 U.N.T.S. 222 ("CRC-OP-AC") (ratified by Israel on 18 July 2005); Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution, and child pornography, 25 May 2171 ,2000 U.N.T.S. 227 ("CRC-OP-SC") (ratified by Israel on 23 July 2008); Convention on the Rights of Persons with Disabilities, 13 December 2515 ,2006 U.N.T.S. 3 ("CPRD") (ratified by Israel on 28 September 2012); International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 660 ,1966 U.N.T.S. 195 ("ICERD") (ratified by Israel on 3 January 1979); International Covenant on Civil and Political Rights, 16 December 999 ,1966 U.N.T.S. 171 ("ICCPR") (ratified by Israel on 3 October 1991); International Covenant on Economic, Social and Cultural Rights, 16 December 993 ,1996 U.N.T.S. 3 ("ICESCR") (ratified by Israel on 3 October 1991).

obligations apply to it extraterritorially in the OPT. [25] As also affirmed by the present Court in that Opinion, and in its earlier Nuclear Weapons Advisory Opinion and other decisions, these human rights obligations continue to operate in wartime situations, including occupations, alongside IHL. [26] As the UN Security Council stated in the context of the 1967 war that began Israel's occupation of the Palestinian Territory, "essential and inalienable human rights should be respected even in the vicissitudes of war". [27]

7.b. Prohibitions on apartheid and racial discrimination more broadly

29. The prohibition of apartheid, and of racial discrimination more broadly, [28] is well-established under international law, both as a matter of treaty law and customary international law.

30. In 1966, the UN General Assembly passed Resolution 2202 (XXI), which condemned the policies of apartheid practiced by the Government of South Africa as a crime against

humanity, [29] and in 1968 it reiterated this condemnation in Resolution 2396. [30]

25 - Wall Advisory Opinion (2004), paras. 112-111, para. 131, and para. 134. See more generally Ralph Wilde, 'Human Rights Beyond Borders at the World Court: The Significance of the International Court of Justice's Jurisprudence on the Extraterritorial Application of International Human Rights Law Treaties' Chinese Journal of International Law (677-639 (4)12 (2013.

26 - Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226 at p. 240, para. 25; Wall Advisory Opinion (2004), p. 178, para. 106; Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005, p. 168 at p. 244, para. 218; Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Request for the Indication of Provisional Measures, I.C.J. Reports 2008, p. 353 at p. 38, para. 112.

27 - SC Res. 14 ,237 June 1967, preamble, para. 2

28 - The prohibition of racial discrimination is enshrined primarily in ICERD, which defines "racial discrimination" as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (ICERD, Art. 1, para. 1). In General Recommendation 8, The Committee on the Elimination of All Forms of Racial Discrimination ("CERD") affirmed that "such identification [as being members of a particular racial or ethnic group or groups] shall, if no justification exists to the contrary, be based on self-identification by the individual considered" (CERD, General Recommendation VIII, U.N. Doc. A/21 ,18/45 August 1990).

29 - GA Res. 2202 (XXI) A, 16 December 1966, para. 1.

30 GA Res. 2 ,2396 December 1968, para. 1. In 1963, the General Assembly had called for an end "without delay" to policies of racial segregation and apartheid in South Africa (GA Res. 1904 (XVIII), 20 November 1963, para. 5).

In 1980, the Security Council unanimously reaffirmed this condemnation and declared that apartheid is "a crime against mankind and is incompatible with the rights and dignity of man, the Charter of the United Nations, and the Universal Declaration of Human Rights, and seriously disturbs international peace and security", [31] and in 1984 it reaffirmed that it is a crime against humanity. [32] In the Namibia Advisory Opinion, the present Court ruled that the policy of apartheid in Namibia by South Africa constituted a "flagrant violation of the purposes and principles of the [UN] Charter". [33]

31. A prohibition of apartheid is contained in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which both Israel and the State of Palestine are parties. [34] Article 3 of ICERD affirms that State Parties "condemn apartheid and undertake to prevent, prohibit and eradicate all such practices in their territories". [35] In 1995, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) confirmed in General Recommendation 19 that Article 3 "prohibits all forms of racial segregation in all countries". [36]

32. The Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), to which the State of Palestine is a party, declares that apartheid is a crime against humanity and that "inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination…are crimes violating the principles of international law". [37] The Apartheid Convention defines the crime of apartheid as "similar policies and practices of racial segregation and discrimination as practised

31 - SC Res. 13 ,473 June 1980, para. 3.

32 - SC Res. 23 ,556 October 1984, para. 1.

33 - Namibia Advisory Opinion (1971), p. 57, para. 131.

34 - ICERD, Art. 3. See UN Treaty Collection, Status of Treaties, ICERD, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV2-&chapter=4&clang=_en.

35 - ICERD, Art. 3. In General Recommendation 8, The Committee on the Elimination of All Forms of Racial Discrimination ("CERD") affirmed that "such identification [as being members of a particular racial or ethnic group or groups] shall, if no justification exists to the contrary, be based on self-identification by the individual considered" (CERD, General Recommendation VIII, 21 August 1990).

36 - CERD, General Recommendation XIX, U.N. Doc. A/18 ,18/50 August 1995, para. 1

37 - Convention on the Suppression and Punishment of the Crime of Apartheid, 30 November 1015 ,1973 U.N.T.S. 243 ("Apartheid Convention"), Art. 1. For a database of State ratifications, see United Nations Treaty Collection, Status of Treaties, Apartheid Convention, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV7-&chapter=4&clang=_en.

in southern Africa," which include "inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them". [38]

33. The Rome Statute of the International Criminal Court, to which the State of Palestine is a party, recognizes apartheid as a crime against humanity, giving rise to individual criminal liability. [39] The Rome Statute defines the crime of apartheid as "inhumane acts of a character similar to those in paragraph 1 [crimes against humanity], committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime". [40]

34. The Palestinian people constitute a distinct racial group for the purposes

38 - Apartheid Convention, Art. 2. Article 2 of the Convention outlines "inhuman acts" that may amount to apartheid, when committed systematically for the purpose of establishing or maintaining domination by one racial group over another, including murder; infliction of serious bodily or mental harm; subjecting them to torture or to cruel, inhuman or degrading treatment or punishment; imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part; any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups; any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof; exploitation of the labour of the members of a racial group or groups; and exploitation of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.

39 Rome Statute of the International Criminal Court, 1998, U.N. Doc. A/CONF.2187 ,9/183 UNTS 90, entered into force 1 July 2002 ("Rome Statute"), Art. 7. Earlier in 1968, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity declared that "inhuman acts resulting from the policy of apartheid" are considered crimes against humanity (Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 21 November 754 ,1968 U.N.T.S. 73, Art. 1).

40 Rome Statute, Art. 7, para. 1(j). Acts enumerated in para. 1 of Article include: (a) murder; (b) extermination; (c) enslavement;
(d) deportation or forcible transfer of population; (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) torture; (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other of sexual violence of comparable gravity; (h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender… or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) enforced disappearance of persons; (j) the crime of apartheid; (k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (Rome Statute, Art. 7, para. 1).

of the apartheid definition under international law. [41] In its definition of racial discrimination, article 1 of the ICERD clarifies that "race" is not the sole indicator of racial discrimination, but that it may cover "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin". [42] CERD General Recommendation VIII further affirms that the identification of individuals as being members of a particular racial or ethnic group "shall, if no justification exists to the contrary, be based on self-identification…" [43] In international criminal law, multiple international criminal tribunals have used a similar approach in addressing the definition of "racial group" in the context of genocide, persecution, and other war crimes based on harms perpetrated by one racial group against another. For example, in Rutaganda, the International Criminal Tribunal for Rwanda (ICTR) held that group membership under the Genocide Convention was to be understood as "a subjective rather than an objective concept" where "the victim is perceived by the perpetrator as belonging to a group slated for destruction". [44] In Blagojević and Jokić, the International Criminal Tribunal for the former Yugoslavia (ICTY) held that "a national, ethnical, racial or religious group is identified by using as criterion the stigmatisation of the group, notably by the perpetrators of the crime, on the basis of its perceived national, ethnical, racial or religious characteristics". [45]

8. Special status of certain rules: jus cogens/non-derogable/peremptory obligations; erga omnes/community obligations

8.a. Jus cogens/non-derogable/peremptory obligations

35. As already indicated in relation to self-determination, some of the foregoing rules of international law have jus cogens/peremptory status. They occupy a higher

41 - For a discussion of the issue of "racial groups" in the context of Israel-Palestine, see, e.g., Dugard, John and Reynolds, John, "Apartheid, International Law, and the Occupied Palestinian Territory," 3)24) EJIL 2013, pp. 891-885.

42 - ICERD, Art. 1.

43 - CERD, General Recommendation VIII, 21 August 1990.

44 - Prosecutor v. Rutaganda, Case No. ICTR-3-96-T, Trial Judgment, 6 Dec. 1999, para. 56.

45 - Prosecutor v. Blagojević and Jokić, Case No. I-60-02-T, Trial Judgment, 17 Jan. 2005, para. 667.

normative position compared to other rules of international law. [46]

36. The position of certain norms in this category has two consequences:

(1) In the first place, as indicated, insofar as there is any contradiction between rules with this status, and other rules that lack this status, the rules with this status prevail. [47]

(2) In the second place, because of their fundamental character, special obligations exist on the part of all States to ensure that these rules are not violated in any given instance. This is relevant to the 'legal consequences' for other States of their violation by Israel, addressed below in Part 4.

8.b. Erga omnes/community obligations

37. Some of the foregoing rules of international law operate erga omnes, against all. Erga omnes rights are those which are opposable to all States. This is not simply a matter of legal norms operating universally—that would be a characteristic of all areas of generally-applicable law. Rather, it denotes a sub-set of generally-applicable law, where in any given situation, not only do those directly affected by compliance with the particular legal norm at issue, as rights holders, have a legitimate interest in the matter of this compliance. Also, all States are understood to have a legitimate interest in compliance in this case, since such compliance constitutes a community interest that all are thereby implicated in. There is thus a legal link between compliance with an erga omnes right/obligation in any given situation, and the position of all States, even though these other States do not have their direct rights affected by the compliance at issue. In the Barcelona Traction decision that is the origin of this concept, the present Court stated that erga omnes obligations are "the concern of all States" [48] and that "all States can be held to

46 - See, e.g., International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001, U.N. Doc. A/10/56, https://legal.un.org/ilc/texts/instruments/english/commentaries/2001_6_9.pdf ("ARSIWA"), Art. 41, para. 2; International Law Commission, Draft conclusions on the identification and legal consequences of peremptory norms of general international law (jus cogens), with commentaries, adopted at its seventy-third session, A/2022 ,10/77, https://legal.un.org/ilc/texts/instruments/english/commentaries/2022_14_1.pdf ("ILC jus cogens Draft Conclusions & Commentaries") and sources cited therein.

47 - Vienna Convention on the Law of Treaties, 23 May 1969, entry into force 27 January 1980, http://legal.un.org/ilc/texts/instruments/english/conventions/1969_1_1.pdf ("VCLT 1969"), Art. 53. See also UN Charter, Art. 103.

48 - Barcelona Traction, Light and Power Company, Limited, Judgment, I.C.J. Reports, 1970, p. 3 at p. 32, para. 33, affirmed by the Court in the Wall Advisory Opinion (2004), p. 199, para. 155.

have a legal interest in their protection." [49] Thus, in any instance where such obligations are violated, all States have a

legal interest at stake, not just the State(s), whose rights are being violated. Like the second consequence of jus cogens status, this feature of erga omnes norms is relevant to the 'legal consequences' for other States of their violation by Israel, addressed below in Part 4.

8.c. Why rules of international law have these two special forms of status; relationship between the two forms; which rules are covered.

38. Obligations have jus cogens and erga omnes status because they are regarded to be of fundamental importance. The ILC study on the former category of obligations has suggested that all obligations that have this status also have the latter status; [50] additional obligations may exist that have the latter status and lack the former status. [51]

39. For present purposes, it is sufficient to focus on rules that have both jus cogens and erga omnes status. These are:

49 - Ibid., again affirmed by the Court in Wall Advisory Opinion (2004), p. 199, para. 155. In the Chagos Advisory Opinion, the Court stated that "all States have a legal interest in protecting" an erga omnes right (Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019, p. 95 at p. 139, para. 180). In the East Timor case, the Court cited Portugal's argument, that because the right in question had erga omnes status, "accordingly Portugal could require it [Australia, the State that, it was argued, had breached the right by entering into an agreement with Indonesia which was predicated on Indonesia's violation of the right], to respect" the right, but dismissed this possibility being realized through the case before it, for jurisdictional reasons [Indonesia had not consented to the Court's adjudication of the legality of its actions] (East Timor (Portugal v. Australia), Judgment, I.C.J. Reports 1995, p. 90 at p. 102, para. 29). The ILC Commentary on ARSIWA describes the concept of erga omnes obligations as addressing "the legal interest of all States in compliance – i.e., ….in being entitled to invoke the responsibility of any State in breach" (ARSIWA, Part Two, Ch. III, Art. 39 Commentary, para. 7).

50 - ILC jus cogens Draft Conclusions & Commentaries, Conclusion 17, para. 1.

51 - ILC jus cogens Draft Conclusions & Commentaries, Conclusion 17 Commentary, paras. 4-3.

(1) The right of self-determination. [52]

(2) The prohibition on the use of force that is not legally justified in international law, and is aggression, including when force is used to purportedly acquire title over, aka 'annex', territory. [53]

(3) Some of the core protections of human rights in addition to self-determination, including as a matter of IHL and IHRL. [54] In particular:

- The core/basic protective rules of IHL, which include the aforementioned
- The core/basic protective rules of IHL, which include the aforementioned

52 - On the right of self-determination having jus cogens status, see ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5, and Part Two, Ch. III, Art. 40 Commentary, para. 5; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; Human Rights Council Res. 28/49 of 11 April 2022, Right of the Palestinian people to self-determination, U.N. Doc. A/HRC/RES/28/49, Preamble, para. 7; Prosecutor v. Anto Furundžija, Case No. IT-1/17-95-T, Judgment, Trial Chamber, 10 December 1988, para. 147; Mornah v. Benin, Application no. 2018/028, Judgment, African Court of Human and Peoples' Rights ("ACtHPR"), 22 September 2022, para. 289. On it having erga omnes status, see East Timor Judgment (1995), p. 102, para. 29; Wall Advisory Opinion (2004), p. 172-171, para. 88 and p.199, paras. 156-155; Chagos Advisory Opinion (2019), p. 139, para. 180, and the fact that it has jus cogens status (which according to the ILC study means it also has erga omnes status).

53 - On the prohibition on the use of force that is not legally justified in international law, and is therefore aggression, having jus cogens status, see ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5, and Part Two, Ch. III, Art. 40 Commentary, para. 4; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports, 1986, p. 14 at p. 90, para. 190; Barcelona Traction Judgment (1970), p. 33, para. 34; Friendly Relations and Co-operation Declaration (1970). On it having erga omnes status see the fact that it has jus cogens status (which according to the ILC study means it also has erga omnes status). On the particular prohibition of the use of force to purportedly acquire title over/annex territory having jus cogens status, see, e.g., Human Rights Council Res. 11 ,28/49 April 2022, Preamble, para. 7, characterizing the "prohibition of the acquisition of territory by force" as a breach of a peremptory norm of international law; Furundžija Trial Chamber Judgment (1988), para. 147.

54 - In the context of erga omnes obligations, the Court in Barcelona Traction referred to "the principles and rules concerning the basic rights of the human person" (Barcelona Traction Judgment (1970), p. 32, para. 34).

prohibition on implanting settlements onto occupied land. [55]

• The prohibition of crimes against humanity. [56]

55 - On the core/basic protective rules of IHL having jus cogens status, see ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex, and the fact that the present Court referred to them in the Nuclear Weapons Advisory Opinion as "intransgressible" (see below in the present note), leading the ILC ARSIWA Commentary to observe that "[i]n the light of the

description by ICJ of the basic rules of international humanitarian law applicable in armed conflict as "intransgressible" in character, it would also seem justified to treat these as peremptory" (ARSIWA, Part Two, Ch. III, Art. 40 Commentary, para. 7). On such rules having erga omnes status see the fact that they have jus cogens status (which, as indicated, according to the ILC study means they also have erga omnes status). In the Wall Advisory Opinion, the Court stated that "With regard to international humanitarian law, the Court recalls that in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons it stated that "a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and 'elementary considerations of humanity' . . .", that they are "to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law" (Nuclear Weapons Advisory Opinion (1996), p. 257, para. 79). In the Court's view, these rules incorporate obligations which are essentially of an erga omnes character" (Wall Advisory Opinion (2004), p. 199, para. 157). As to which protective rules are 'core/basic' and therefore have jus cogens and erga omnes status, notably the present Court referred 'a great many' rules of IHL. Certainly, they include, and are not limited to, rules which, if violated, are classified as 'serious violations' of IHL and 'war crimes' (the terms being used interchangeably) by the ICRC. Such a classification includes rules which, if violated, constitute 'grave breaches' of the four Geneva Conventions and Protocol I. And, also, insofar as this makes a difference (supplementing the coverage of grave breaches in the aforementioned treaties in general, and for those states who are not a party to one or more of them, as with Israel and Protocol I), breaches classified as 'war crimes' in the Rome Statute and customary international law. See ICRC, "What are "serious violations of international humanitarian law"? Explanatory Note", https://www.icrc.org/en/doc/assets/files/2012/att-what-are-serious-violations-of-ihl-icrc.pdf. Note that the ICRC emphasises that 'serious violations' is a wider category of violations than those violations that constitute 'grave breaches' (See ICRC, Updated Commentary on GC III (2020), Art. 130 Commentary, para. 5173). The prohibition of implanting settlements in occupied land falls into this 'core/basic' category and, within this, into the 'serious violations' category. This is illustrated by, but not exclusively based on, the fact that a breach of this prohibition is included in the 'grave breaches' category of Protocol I, and as a 'war crime' in the Rome Statute. See Protocol I, Art. 4)85)(a), and Rome Statute, Art. 8, para. 2(b)(viii). It is also notable that, as explained herein, implanting settlements in the territory of a self-determination unit is also a breach of the right of external self-determination. That right exists in customary international law and itself has jus cogens and erga omnes status. Given that it is, to borrow the phrase of the Court to describe the 'intransgressible' rules of IHL, "fundamental to the respect of the human person [on an individual and a collective level] and 'elementary considerations of humanity'", it follows that the prohibition of implanting settlements shares this characteristic as an essential element of it.

56 - On the prohibition of crimes against humanity having jus cogens status, see ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5; The Obligations in Matters of Human Rights of a State that has Denounced the American Convention on Human Rights and the Charter of the Organization of American States, Advisory Opinion OC20/26- of 9 November 2020, Inter-American Court of Human Rights ("IACtHR"), para. 105; Prosecutor v. Kupreškić et al., Case No. IT-16-95-T, Judgment, Trial Chamber, 14 January 2000, para.
520. On this having erga omnes status see the fact that it has jus cogens status (which, as indicated, according to the ILC study means they also have erga omnes status).

• The prohibition of racial discrimination generally.[57]

• The prohibition of apartheid. [58]

• The prohibition of slavery. [59]

57 - On the prohibition on racial discrimination generally having jus cogens status, see ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5 and Part Two, Ch. III, Art. 40 Commentary, para. 4; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; Juridical Condition and Rights of Undocumented Migrants, Advisory Opinion OC03/18- of 17 September 2003, IACtHR, para. 101; Furundžija Trial Chamber Judgment (1988), para. 147. On it having erga omnes status, see Barcelona Traction Judgment (1970), p. 32, para. 34 and the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status). Article 6 of the ICERD obliges States Parties to "assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination". The CERD Committee has confirmed that this contains the obligation to investigate and prosecute acts of racial discrimination, see L.K. v. Netherlands, Communication No. 1991/4, CERD, U.N. Doc. A/18/48, paras. 6.6-6.4 (interpreting Art. 4 of the ICERD).

58 - On the prohibition of apartheid having jus cogens status, see ARSIWA, Part Two, Ch. III, Art. 40 Commentary, para. 4; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; Obligations of a State that has Denounced the ACHR

IACtHR Advisory Opinion (2020), para. 105. On it having erga omnes status, see the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status). Article IV of the Apartheid Convention obliges States to "supress as well as to prevent any encouragement of the crime of apartheid" and to "prosecute, bring to trial and punish and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons" (Apartheid Convention, Art. IV).

59 - On the prohibition of slavery and the slave trade having jus cogens status, see ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5 and Part Two, Ch. III, Art. 40 Commentary, para. 4 (slavery and slave trade); ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex (slavery only); Obligations of a State that has Denounced the ACHR IACtHR Advisory Opinion (2020), para. 105; Furundžija Trial Chamber Judgment (1988), para. 147. On the prohibition of slavery having erga omnes status, see Barcelona Traction Judgment (1970), p. 32, para. 34, and the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status).

• The prohibition of genocide. [60]

• The prohibition of torture [61] and cruel, inhuman, and degrading treatment and punishment. [62]

PART 3: ILLEGALITY AND LEGAL STATUS OF THE OCCUPATION

9. Introduction and summary

40. This Part clarifies what the terms 'legal'/'illegal' mean, according to the relevant, multiple areas of applicable international law. It explains how the different forms of 'legality'/ 'illegality' relate to each other, and how they apply to the occupation.

60 - On the prohibition of genocide having jus cogens status, see ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; ARSIWA, Part One, Ch. IV, Art. 26 Commentary, para. 5 and Part Two, Ch. III, Art. 40 Commentary, para. 4;

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, Judgment, I.C.J. Reports 1996, p. 595 at p. 616-615, para. 31; Obligations of a State that has Denounced the ACHR IACtHR Advisory Opinion (2020), para. 105; Furundžija Trial Chamber Judgment (1988), para. 147; Kupreškić Trial Chamber Judgment (2000), para. 520. On it having erga omnes status see the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status). Article I of the Genocide Convention obliges States Parties to prevent genocide, whereas Article VI obliges States Parties to prosecute acts of genocide.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007, p. 43 at p. 113, para. 165 and p. 120, para. 184, respectively

61 - On the prohibition of torture having jus cogens status, see ILC jus cogens Draft Conclusions & Commentaries, Conclusion 23, Annex; ARSIWA, Part One, Ch. IV, Art. 26 Commentary para. 5; Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J. Reports 2012, p. 422 at p. 457, para. 99; Furundžija Trial Chamber Judgment (1988), para. 147, and the fact that it is a non-derogable right in human rights treaties. On it having erga omnes status see the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status); Furundžija Trial Chamber Judgment (1988), para. 151. Article 7 of the Convention Against Torture reads, "The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution". This Court held that Article 7 of the Convention Against Torture obliges all States to prosecute acts of torture when the perpetrator is within the territory (Belgium v. Senegal Judgment (2012), pp. 457-456, p. paras. 99-95).

62 - On the prohibition of cruel, inhuman and degrading treatment and punishment having jus cogens status, see Obligations of a State that has Denounced the ACHR IACtHR Advisory Opinion (2020), para. 106 and sources cited therein, note. 155; Al-Adsani v. The United Kingdom, Application No. 97/35763, Judgment, ECtHR, 21 November 2001, para. 59, and the and the fact that it is a non-derogable right in human rights treaties. On it having erga omnes status see the fact that it has jus cogens status (which, as indicated, according to the ILC study means it also has erga omnes status).

41. As to existential legality/illegality, the occupation, simply by virtue of exercising control over the West Bank (including East Jerusalem) and Gaza, and consequently preventing the Palestinian people from full and effective self-governance, constitutes a fundamental impediment to the realization of the right of self-determination of the Palestinian people enshrined in international law.

42. As the occupation is a use of force, the legality of its existence falls to be determined according to the jus ad bellum. The only permissible justification for the occupation in the jus ad bellum is through a right of self-defence.

43. Israel's use of force against Egypt, Jordan and Syria in 1967 was not a legally valid exercise of a right to self-defence, and the occupation of the Palestinian Territory, under

Egyptian and Jordanian administration up until that point, was, therefore, a part of an unlawful use of force. Thus, the occupation was itself an illegal use of force, an aggression, from the outset. As a result, there is no valid international law basis for the existence of the occupation.

44. The occupation's existential illegality stems from its lack of legal basis as a system of control, compounded by its prolonged duration, annexation efforts, and severe abuses against Palestinians. The use of military force to annex territory constitutes aggression and a violation of international law. The occupation's abusive nature aggravates its illegality, and any annexations have no legal effect. Israel cannot claim sovereignty over the occupied Palestinian territories, including East Jerusalem, through forceful control. The occupation is an ongoing international wrongful act, requiring immediate and unconditional termination.

45. As to the illegality of the conduct of the occupation, there are multiple, egregious breaches of the relevant areas of applicable international law: self-determination including the right to return; IHL including occupation law; international human rights law generally, and, within this, the prohibition of racial discrimination generally and the prohibition of apartheid in particular, and the prohibition of

torture and cruel, inhuman and degrading treatment and punishment.

46. The occupation is thus illegal in both its existence and its conduct.

47. All the main areas of international law violated—the prohibition on the use of force other than in self-defence/the prohibition of aggression; the right of self-determination; the prohibition of racial discrimination generally and apartheid in particular; the core/basic protections of IHL; the prohibition of torture and cruel, inhuman and degrading treatment and punishment—have jus cogens and erga omnes status.

10. Existential legality/illegality 1: Significance of the right of external self-determination

48. The right of Palestinian self-determination in international law, and the necessary consequence of this, that the Palestinian people should be able to exercise the right, free of Israeli control, is near-universally accepted.

49. The occupation is existentially illegal under the law of self-determination, as it prevents the Palestinian people's realization of their entitlement to self-determination. While aggravating factors such as settler-colonialism, apartheid, and abuses further impact its legality, the core denial of Palestinian self-determination by the occupation itself is sufficient to deem it illegal.

11. Existential legality/illegality 2: Annexation, including 'de facto' annexation.

11.a. Meaning of annexation

50. In international law, 'annexation' represents a situation of purported acquisition of territory by force. Whereas occupation is, by definition, temporary and without prejudice to the legal status of the territory concerned, the aim of annexation is to exercise permanent dominion and sovereignty over that territory, thereby altering its legal status. This is illegal in international law.

11.b. Areas where Israel has purported to annex territory—East Jerusalem and other areas of the West Bank

51. For various reasons, notably Israel's extension of its national law to apply to East Jerusalem (e.g., the Basic Law of 1980), Israel has purported to annex that territory.

52. This constitutes two separate violations of international law concerned with the existential legality of the occupation:

(1) Israel's attempt to assert sovereignty is a violation of its legal obligations to respect the right of self-determination of the Palestinian people and the sovereignty of the State of Palestine.

(2) Because it has been enabled and is maintained through the use of military force, and according to the law on the use of force, the annexation of territory is not a legally valid basis for using military force, Israel's use of force in order to annex East Jerusalem is a violation of the international law on the use of force. As the General Assembly observed in the Friendly Relations and Co-operation Declaration, "the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force". [63] Thus, in the context of the occupation of the Palestinian Territory in 1970, the General Assembly stated that "the acquisition of territories by force is inadmissible". [64]

53. The same logic applies to any other parts of the Occupied Palestinian Territory where purported annexation has happened or may happen in the future.

11.c. 'de facto' annexation

11.c.i. What is 'de facto' annexation?

54. It is sometimes said that Israel is practising 'de facto' annexation in the West

63 - Friendly Relations and Co-operation Declaration (1970).

64 - GA Res. 2628 (XXV), 4 November 1970, para. 1.

Bank. This means the exercise of control over the West Bank on one or both of the following bases:

(1) The occupation involves "performing sovereignty" without formally claiming it, such as monopolizing the legitimate use of violence and enabling Israeli settlers to live on the land, believing it to be part of Israel. Legally, this can be understood as a distinction between "sovereignty-as-administration" (control in practice) and "sovereignty-as-title" (legal ownership), where the former exists without the latter in this case.

(2) In the second place, establishing 'facts on the ground' through control and implanting settlers that could then pave the way for the eventual declaration of de jure sovereignty over the land in question. It is perhaps this meaning of de facto annexation that the present Court was invoking when it held that

the construction of the wall and its associated régime create a "fait accompli" on the ground that could well become permanent, in which case … it would be tantamount to de facto annexation. [65]

11.c.ii. Illegality

55. Implanting settlers on occupied land is in and of itself, including as a form of de facto annexation understood as a performance of sovereignty/'sovereignty-as-administration' only and/or as a means of establishing facts on the ground to enable territorial acquisition, a violation of occupation law and the law of self-determination. The prohibition here is a general one, however, not specific to any kind of de facto annexation context.

56. Occupying non-sovereign territory as a form of de facto annexation understood as a performance of sovereignty/'sovereignty-as-administration'-only and/or as a means of establishing facts on the ground to enable territorial acquisition is not a valid international legal basis for conducting such a military occupation

65 - Wall Advisory Opinion (2004), p. 184, para. 121.

according to the international law on the use of force. In consequence, as with de jure purported annexation, occupation for these reasons is:

(1) a violation of Israel's legal obligation to respect the sovereignty of the State of Palestine and a violation of Israel's legal obligation to respect the right of self-determination of the Palestinian people;

(2) a violation of Israel's obligations in the international law on the use of force.

11.d. Why the violation of self-determination involved in the occupation goes beyond the issue of annexation

57. The foregoing determinations about the illegality of the occupation are necessarily specific to its link to annexation. The control Israel exercises over territory on the basis of purported annexation is unlawful on this basis — since Israel cannot annex territory in this way, the purported annexation has not been legally effective, and thus Israel has no valid legal basis to control the territory on the basis that it is the sovereign. The control Israel exercises over

the West Bank on the basis of 'de facto' annexation as defined above is also legally invalid, since international law does not permit a State to use force to control the territory of a self-determination unit (and also, in this case, a State) for these purposes.

58. The Palestinian right to freedom from occupation, rooted in self-determination, extends beyond the specific issue of annexation. The core issue is the occupation itself as a system of control, regardless of its purpose. While the analysis addresses some aspects of existential illegality, it does not provide a comprehensive treatment of the matter.

12. Existential legality/illegality 3: The occupation as a form of self-defence; the relevance of Security Council Resolution 242

12.a. Ostensible security-basis for the occupation and the applicable framework of international law

59. Some accept the Palestinian right to self-determination and the implications for the occupation's illegality but hesitate to conclude that the occupation must end immediately. This position often stems from the belief that Israel should maintain the occupation for security reasons or that its end should be contingent on a peace agreement providing security guarantees for Israel.

60. Does international law permit Israel to maintain the occupation, notwithstanding the necessary impediment this causes to the realization of self-determination by the Palestinian people, on this basis?

61. The Israeli occupation of Palestinian territory, including Gaza, constitutes a military occupation and, under international law, a "use of force," akin to war. Despite Israel withdrawing its ground forces from Gaza in 2005, it maintains control through methods such as a siege, control of airspace and maritime territory, and the ability to reintroduce ground troops. This ongoing situation, supplemented by military incursions and missile strikes, represents continuous use of force under international law.

62. The only legal grounds for a State being entitled to control territory that does not form part of its sovereign territory, and which is either the territory of another State, or a non-State self-determination unit, through the use of force in the foregoing way, is if one or more of the following are present: (a) the host sovereign entity has validly given its permission; (b) the UN Security Council has given its authority for this under Chapter VII of the UN Charter; (c) it is a legally-valid exercise of self-defence according to the international law

on the use of force. Such grounds do not exist in relation to Israel's occupation of the Palestinian Territory.

12.b. Security Council Resolution 242 (1967)

63. In Resolution 242 of 1967, the United Nations Security Council affirmed that:

…the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles: (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity, and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force. [66]

64. By invoking the withdrawal of occupation forces—i.e., the end of the occupation—in the context of a "just and lasting peace", is the Security Council stipulating that the occupation can continue until there is a "just and lasting peace"—perhaps in the form of a peace agreement—which, moreover, must include a resolution of/provision for the matters set out in the second paragraph? And, if so, did this stipulation provide legal grounds for the occupation to continue from 1967? The answer to both these questions is no.

65. The Council merely stated that a "just and lasting peace" would require both an end to the occupation and the resolution of all matters outlined in the second paragraph. This does not imply that the occupation can continue until a "just and lasting peace" is achieved, which includes the resolution of all these matters. In other words, the absence of any of the elements of a "just and lasting peace" does not justify the continuation of the occupation. That would be a logical fallacy.

66. Security Council Resolution 242 therefore provides no legal basis for the existence or continuation of the occupation.

12.c. Self-defence

67. The use of force in self-defence (reason (c) above) is only legally permitted

66 SC Res. 22 ,242 November 1967, para. 1.

according to the international law on the use of force—the jus ad bellum—if there is an actual or imminent threat of an armed attack, and the use of force involved—here, a military occupation—is necessary and proportionate to that attack/imminent threat of attack.

68. In 1967, there was no actual or imminent threat of armed attack that justified the use of force, including the occupation, in self-defense. Israel's use of force at that time, which resulted in the occupation, lacked a valid basis in international law. Consequently, the occupation has been illegal from the outset, constituting an aggression and an unlawful use of force under the law on the use of force.

69. For the sake of hypothetical argument, the present submission will address the alternative starting position in 1967, which, as indicated, the submission rejects, that Israel had a valid

legal right to use force in 1967 in self-defence, and a further hypothetical argument (which is moot if there was no valid legal right to self-defence in the first place), that the introduction of the occupation was necessary and proportionate in legal terms.

70. The requirement to justify the use of force, including military occupation, applies continuously, not just during the initial invasion. The occupation itself is an ongoing use of force, and its legality depends on meeting the ad bellum test: there must be an actual or imminent threat of armed attack, and the force used—such as occupation—must be necessary and proportionate. If this test is not met, the occupation is illegal. The question is whether the occupation meets this test.

71. If one accepts that Israel had the legal right to use force in 1967 for self-defense during active hostilities with Egypt, Jordan, and Syria, this justification would have expired once hostilities ended. After that point, there was no longer an imminent threat justifying continued force, and Israel had no lawful basis to maintain the occupation. From that moment, the occupation became an unlawful

use of force, constituting aggression.

72. The occupation serves, in part, to prevent the creation of a fully autonomous Palestinian state at Israel's borders, driven by security concerns. Additionally, the use of force in the West Bank is sometimes framed as self-defense against threats to settlements. However, preventative self-defense is not recognized as a valid justification for the use of force under international law, meaning the occupation cannot be legally justified on these grounds.

73. The use of force to protect Israeli settlers, even from imminent attacks, is legally invalid due to the extraterritorial and illegal nature of the settlements. International law does not allow the use of force to defend nationals outside a state's territory. Protection of settlers could be achieved by ending their illegal presence in the West Bank and East Jerusalem.

12.d. Conclusion—the occupation is an illegal use of force, an aggression

74. The effect of the foregoing analysis in this section is that there is no lawful basis for Israel to maintain the occupation or, put differently, to lawfully impede the Palestinian right of self-determination through maintaining the occupation. In consequence, the occupation of Gaza and the West Bank (including East Jerusalem) is existentially illegal as a breach of the international law on the use of force and the law of self-determination.

75. The nature of the breach of the international law on the use of force covered in the previous paragraph is such as to meet the definition of 'aggression' in international law. The term 'aggression' is usually as a synonym for a breach of the international law on the use of

force, and, occasionally, a sub-set of such breaches that are of a particular grave nature. Insofar as the latter definition is concerned, the breach here meets and exceeds the threshold. It meets it with the existence of an unlawful, in jus ad bellum terms, occupation (the UN General Assembly has affirmed that an occupation can

be an aggression). It then exceeds it through the aggravating factors of a link to annexation, prolonged duration and egregiously abusive conduct. The individual crime of aggression in the Rome Statute for the International Criminal Court is limited to aggression which because of its "character, gravity and scale constitutes a manifest violation of the Charter of the United Nations". [67] For the same reasons that the breach of international law here falls within the (occasionally-used) definition of aggression covering a sub-set of breaches of the law on the use of force, the illegal nature of the use of force meets this Rome Statute definition of the individual crime of aggression.

13. Illegality of the conduct of the occupation

13.a. Overview

76. There have been and continues to be widespread violations of self-determination, other areas of international human rights law, and IHL, including occupation law, by Israel in its conduct of the occupation in the West Bank, including East Jerusalem, and the Gaza Strip. These have included violations of the core/basic protective norms of IHL, torture and cruel, inhuman and degrading treatment and punishment, racial discrimination generally, and apartheid in particular. Thus, the conduct of the occupation involves violations of the following norms of international law that have jus cogens and erga omnes status:

(1) The right of self-determination.

(2) The prohibition of apartheid.

(3) The core/basic protective rules of IHL, including the prohibition of implanting of settlers on occupied land.

(4) The prohibition of racial discrimination generally.

67 Rome Statute, Art. 8bis, para. 1

(5) The prohibition of torture and cruel, inhuman and degrading treatment and punishment.

This has been widely documented, including by various United Nations bodies, the evidence of which having been submitted to the Court by the United Nations in the present proceedings. [68]

77. These include violations arising out of positive actions by Israeli agents, including soldiers, as well as the failure to protect the Palestinian people from harm perpetrated against them by Israeli settlers. Israel's behaviour in East Jerusalem, acting as the sovereign when it is not, violates those areas of occupation law which rule out such behaviour, notably the

prohibition on altering the existing domestic law unless absolutely prevented, which Israel's purported extension of its own national legal system over the area amounts to an egregious violation of.

78. Rights violations, which breach IHL and IHRL, have been and are widespread and cover the full spectrum of rights, in terms of civil and political rights (e.g., the right to life; freedom from torture and cruel, inhuman and degrading treatment and punishment; freedom of movement) and economic, social and cultural rights (e.g. the rights to housing, education, and cultural heritage).

13.b. Violations of freedom of expression, association, and assembly in particular

79. Israel violates the freedom of expression, association, and assembly of

68 - See United Nations, Dossier, 'Materials Compiled Pursuant to Article 65, Paragraph 2 of the Statute of the International Court of Justice (Request for an advisory opinion by the International Court of Justice pursuant to General Assembly Resolution 247/77),' in two Parts (I and II), 31 May 2013, posted on the ICJ Website, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Latest Developments, https://www.icj-cij.org/case/186 (list of documents contained in the Annex to the Dossier: https://www.icj-cij.org/sites/default/files/case-related/-20230531-186/186req-01--01en.pdf) ('UN Dossier').

the Palestinian people through policies and practices that target the individual exercise of civil and political rights, and the activities of Palestinian civil society organizations. For example, the Israeli military occupation forces enacted several military orders that criminalize peaceful expressions of opposition to the occupation, displays of Palestinian flags or political symbols, any "act or omission which entails harm, damage, disturbance to the security of the area or of the Israeli Defense Forces," in addition to a wide range of vaguely defined so-called security offences. [69] The suppression of Palestinian freedom of expression, association, and assembly has intensified in recent years, culminating in the 2021 criminalization of six prominent Palestinian civil society and human rights organizations – Al-Haq, Addameer Prisoner Support and Human Rights Association, Bisan Center for Research and Development, Defense for Children International-Palestine (DCIP), Union of Agricultural Work Committees, and Union of Palestinian Women's Committees. [70] The Israeli designation, without evidence, of these civil society organizations as "terrorist groups"–which was rejected by the UN High Commissioner for Human Rights and UN human rights mandate holders, EU

69 - Human Rights Watch, Born Without Civil Rights, December 2019, https://www.hrw.org/report/17/12/2019/born-without-civil-rights/israels-use-draconian-military-orders-repress#. In 2010, the Israeli military commander in the West Bank enacted Military Order No. 1651 of 2009, which consolidated a number of previously issued orders into an integrated "criminal code" that defines security offenses and governs criminal procedures in Israeli military courts in the West Bank. The Order has been amended several times, with the up-to-date Hebrew version available at https://www.nevo.co.il/law_html/law027_666/65.htm.

70 - On October 2021 ,22, the Israeli Defense Minister declared six Palestinian civil society organizations (Addameer Prisoner Support and Human Rights Association, Al-Haq, Bisan Center for Research and Development, Defense for Children International-Palestine (DCIP), Union of Agricultural Work Committees, and Union of Palestinian Women's Committees) unlawful under the 2016 Israeli Counterterrorism Act (Designations No. 376-371, Israeli Minister of Defense, 19 October 2021, https://nbctf.mod.gov.il/en/Pages/211021EN.aspx). Two weeks later, the Israeli military commander in the West Bank declared them "illegitimate in accordance with defense regulations" (Declarations 3 ,11794-11790 November 2021); see also Union of Palestinian Women's Committees, https://upwc.org.ps.

governments, and rights organizations in Israel and around the world [71]–has had a devastating impact on the freedom of expression and assembly, and the exercise of civil and political rights, of the Palestinian people. [72] Earlier, in January 2021, Israel had designated the Palestinian Health Work Committees, a key provider of healthcare services in the West Bank, as a terrorist group. [73] In 2022, the UN Human Rights Committee noted with concern the use by Israel of terrorism legislation to "oppress and criminalize legitimate political or humanitarian acts", in addition to other measures aimed at targeting the exercise of free expression, such as residency revocations and denial of entry into Israel. [74] Specifically, the Human Rights Committee stated that it was "deeply concerned" at the declaration of the six Palestinian civil society organization as "unlawful" and the designation of them as "terrorist organizations", describing this as "serious restrictions on the right of freedom of expression". [75]

71 - See, e.g., "Israel's "terrorism" designation an unjustified attack on Palestinian civil society – Bachelet," 26 October 2021,

UN Human Rights Office of the High Commissioner, 26 October 2021, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27708&LangID=E; "UN Special Rapporteurs Condemn Israel's Designation of Palestinian Human Rights Defenders as Terrorist Organizations – Press Release," United Nations, 25 October 2021, https://www.un.org/unispal/document/un-special-rapporteurs-condemn-israels-designation-of-palestinian-human-rights-defenders-as-terrorist-organisations-press-release/; "EU questions Israeli decision to ban Palestinian NGOs," Brussels Times, 26 October 2021, https://www.brusselstimes.com/news/eu-affairs/190653/eu-questions-israeli-decision-to-ban-palestinian-ngos; "252 Human Rights Networks and Organizations Condemn the Decision of the Occupation and Apartheid Government Concerning Six Palestinian Civil Society and Human Rights Organizations," Addameer, 27 October, 2021, https://www.addameer.org/news/4549; Joint Statement by Israeli Human Rights Organizations: Draconian Measures Against Human Rights, 25 October 2021, https://www.btselem.org/press_releases/20211025_draconian_measure_against_human_rights.

72 - See, e.g., Amnesty International, Israel/OPT: The stifling of Palestinian civil society organizations must end, 18 August 2022, https://www.amnesty.org/en/latest/news/08/2022/israel-opt-the-stifling-of-palestinian-civil-society-organizations-must-end/.

73 - See Al-Haq, Israel's Attack on the Palestinian Health Work Committees is Part of its Systematic Targeting of Palestinian Civil Society, 19 June 2021, https://www.alhaq.org/advocacy/18527.html; Amnesty International, Israeli Army Shutdown of Health Organization Will Have Catastrophic Consequences for Palestinian Healthcare, 9 June 2021, https://www.amnesty.org/en/latest/news/06/2021/israeli-army-shutdown-of-health-organization-will-have-catastrophic-consequences-for-palestinian-healthcare/).

74 - Human Rights Committee, Concluding observations on the fifth periodic report of Israel, CCPR/C/ISR/CO/5 ,5 May 2022, para. 18, https://digitallibrary.un.org/record/3977037?ln=en.

75 - Ibid., para. 48.

13.c. Settlements

80. The present Court held in the Wall Advisory Opinion that:

Israel has conducted a policy and developed practices involving the establishment of settlements in the Occupied Palestinian Territory, contrary to the terms of Article 49 paragraph 6 [of GCIV]. [76]

The General Assembly has held that Israel's establishment of settlements in the OPT "constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace". [77] The Security Council considered that "the policy of Israel in establishing settlements in the occupied Arab territories…constitutes a violation" of the Fourth Geneva Convention. [78] The Council also determined that, in the context of Israel's measures to "change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem" that

Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East. [79]

13.d. Self-determination more broadly

81. Israel violates the Palestinian right to self-determination by restricting their ability to participate in self-government and maintain a functioning civil society.

76 - Wall Advisory Opinion (2004), pp. 184-183, para. 120.

77 - GA Res. 23 ,2334 December 2016, para. 1.

78 - SC Res. 20 ,(1979) 452 July 1979, preamble.

79 - SC Res. 1 ,(1980) 465 March 1980, para. 5.

This includes violations of the right to return, freedom of movement, residence, and religious freedom by preventing Palestinians from freely traveling between Gaza, the West Bank, and East Jerusalem. Religious freedom is particularly impacted by restrictions on access to holy sites, such as the Al-Aqsa Mosque in Jerusalem and the Ibrahimi Mosque in Hebron, with both territorial and site-specific access limitations.

82. The occupation's harmful and abusive conduct systematically violates various areas of international law, severely affecting the continued existence of the Palestinian people in the occupied territories. This undermines the right of self-determination and the sovereign rights of the State of Palestine, as it directly attacks the essential relationship between the Palestinian people and their land, which is necessary for realizing these rights.

83. An example of how Israel's harmful and abusive practices have this effect is the implanting, existence and maintenance of settlements and their associated supportive infrastructure including separate roads providing essential direct links to Israel, environmental harm, and natural resource use. In addition to violating the specific legal prohibition in occupation law, as indicated above, this practice constitutes a violation of the legal right of self-determination because of its essentially colonial nature and effect. The commentary to GC IV Article 49 indicates that the provision

…is intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race. [80]

The foregoing considerations indicate that settlements violate the legal right of the Palestinian people to self-determination, and the related sovereign rights of the State of Palestine, because of the following factors:

80 - GC IV, Art. 49 Commentary, para. 6.

(1) They involve taking land from the Palestinian people and/or the State of Palestine

(2) They alter the demographic composition of Palestine to reduce, proportionately, the number of Palestinian people living there.

(3) They are established and operate (e.g. the connecting settler-only roads to Israel, enabling people to commute to work there) on the basis of a claim by the individuals involved, linked to their identity as Israelis, that the territory where they live is the land of Israel, and not, therefore, the territory of the Palestinian people as a self-determination unit and the sovereign territory of the State of Palestine.

84. When considering the settlements in the context of the construction of the wall, the present Court held that

the route chosen for the wall gave expression in loco to the illegal measures taken by Israel with regard to Jerusalem and the settlements, with a risk of further alterations to the demographic composition of the occupied territory: consequently, the construction of the wall along with measures taken previously severely impeded the exercise by the Palestinian people of its right to self-determination, and was therefore a breach of Israel's obligation to respect that right. [81]

13.e. Violations of the rights of women and girls

85. Israel violates the rights of Palestinian women and girls through multiple discriminatory laws, policies, and measures. In addition to extensively documented violent Israeli practices in the OPT that deprive Palestinian women of their right to life, liberty, and security, Israel enforces a complex web of discriminatory laws

81 - Wall Advisory Opinion (2004), p. 184, para. 122.

and rules that have a particularly severe gendered impact. [82] Examples include movement restrictions, discriminatory residency laws, restrictions on family reunification, home demolitions, arbitrary detention, and targeting of human rights and women's rights defenders. [83]

86. In 2017, the CEDAW Committee expressed concern that Palestinian women and girls in the OPT "continue to be subjected to excessive use of force and abuse" by Israeli occupation forces and settlers, "including physical, psychological and verbal abuse and sexual harassment and violations of their right to life", and noted that "[t]he practice of night raids employed by the Israeli security forces disproportionately affects women and girls". [84] The Committee demanded that Israel "put an end to all human rights abuses and violations perpetrated against women and girls", including policies and practices of evictions, punitive home demolitions, restriction on the movement, night raids, and abuses at Israeli check points, which "disproportionately affect women and girls". [85] The CEDAW

82 - See, e.g., UN Women, Gender and Wars in Gaza Untangled: What Past Wars Have Taught Us? June 2021, https://palestine.unwomen.org/en/digital-library/publications/06/2021/gender-and-wars-in-gaza-untangled; UN Women, In the Absence of Justice: Embodiment and the Politics of Militarized Dismemberment in Occupied East Jerusalem, December 2016, https://palestine.unwomen.org/sites/default/files/Field20%Office20% Palestine/Attachments/Publications/2016/In20%the0 2%Absence20%of20%Justice_Report.pdf; UN Women, Access Denied: Palestinian Women's Access to Justice in the West Bank

of the occupied Palestinian Territory, March 2014, https://palestine.unwomen.org/en/digital-library/publications/12/2014/access-denied; Norwegian Refugee Council, Gaza: The Impact of Conflict on Women, November 2015, p. 24, https://www.nrc.no/globalassets/pdf/reports/gaza---the-impact-of-conflict-on-women.pdf; Gisha-Legal Center for Freedom of Movement, Discrimination by Default: A Gender Analysis of Israel's Criteria for Travel Through Erez Crossing, December 2020, https://gisha.org/UserFiles/File/publications/Discrimination_by_Default_EN.pdf; Gisha-Legal Center for Freedom of Movement, The Concrete Ceiling: Women in Gaza on the Impact of the Closure on Women in the Workforce, March 2017, https://www.gisha.org/UserFiles/File/publications/women_gaza_17/women_gaza_17_en.pdf; Al-Haq, Submission to the Committee on the Elimination of All Forms of Discrimination Against Women Regarding Israel's Sixth

Periodic Report, 68th Session, October 2017, https://www.alhaq.org/cached_uploads/download/alhaq_files//images/thumbnails/images/stories/Images/1146.pdf.

83 - For an analysis of the experience of occupation from a gender perspective, see. e.g., Fionnuala Ni Aolain, "The Gender of the Occupation", Yale Journal of International Law 376-336 ,45.2.

84 - Committee on the Elimination of Discrimination Against Women ("CEDAW Committee"), Concluding Observations on the Sixth Periodic Report of Israel, CEDAW/C/ISR/CO/17 ,6 November 2017, para. 30, https://www.ohchr.org/en/documents/concluding-observations/cedawcisrco-6concluding-observations-sixth-periodic-report-israel.

85 Ibid., paras. 33-32 ,30.

Committee also expressed concerns with respect to the "increased number of Palestinian women and girls who are subjected to prolonged administrative detention and forcible transfers" from the OPT to detention centers in Israel and about reports of their limited access to justice and health-care services". [86] These concerns were raised by CEDAW earlier, in its 2011 review of Israel, [87] which also deplored Israel's failure to document, prosecute, and punish attacks on Palestinian women by both State and non-State actors. [88] In 2022 the UN Human Rights Committee raised further concerns about the intersecting forms of violence that Palestinian women face as a result of Israeli policies in the OPT, noting that "Palestinian women whose residency status depends solely on that of their spouses may be reluctant to report domestic violence or file for divorce", implicating violation by Israel of Articles 17, 23, 24, and 26 of the ICCPR. [89]

87. In the Gaza Strip, in particular, the severe restrictions on the movement of Palestinian people imposed by Israel, and repeated Israeli military attacks, have had severe cumulative gendered impacts, and exacerbated gender-specific risks and vulnerabilities. As UN Women observed in 2021, the escalation of Israeli violence in the Gaza Strip, already suffering under a "suffocating blockade,"

86 - Ibid., para. 52. In a 2018 report, Addameer Prisoner Support and Human Rights Association noted that "over the last 50 years, an estimated 10,000 Palestinian women have been arrested and/or detained under Israeli military orders. In 2015, occupation forces arrested 106 Palestinian women and girls, representing an increase by %70 compared with the number of women and girls arrested in 2013. The year 2017 ended with 58 Palestinian women in detention including minor detainees" (Addameer, Imprisonment of Women and Girls, November 2018, https://www.addameer.org/the_prisoners/women).

87 - CEDAW Committee, Concluding Observations on the Fifth Periodic Report of Israel, CEDAW/C/ISR/CO/5 ,5 April 2011, paras. 29-22, 40, https://undocs.org/Home/Mobile?FinalSymbol=CEDAW2%FC2%FISR2%FCO2%F5&Language=E&DeviceType=Desktop &LangRequested=False.

88 - Ibid., para. 22.

89 - Human Rights Committee, Concluding observations on the fifth periodic report of Israel, CCPR/C/ISR/CO/5 ,5 May 2022, para. 44, https://www.ohchr.org/en/documents/concluding-observations/ccprcisrco-4 concluding-observations-fourth-periodic-report-israel.

[90] and its associated widespread destruction of homes and infrastructure, [91] has "hit female household members the hardest" in terms of their economic, health, and traumatic psychological impact, in addition to loss of personal security and privacy, a stressful experience for girls especially. [92] Moreover, nearly two decades of Israeli movement restrictions have had uniquely devastating impact on Palestinian women Gaza in terms of their ability to access education, employment, and vital healthcare services, including reproductive and maternal healthcare. [93] In 2014, the Human Rights Committee noted with concern that the Gaza blockade "continues … to negatively impact on Palestinians' access to all basic and life-saving services such as food, health, electricity, water and sanitation", in violation of Articles 1, 6, 7, and 12 of the ICCPR. [94]

88. Israel's escalation of its suppression of Palestinian civil society, and in particular the aforementioned criminalization of Palestinian civil society organizations, including Union of Palestinian Women's Committees, has had a

90 - UN Women, Gender and Wars in Gaza Untangled: What Past Wars Have Taught Us? June 2021, p. 21, https://palestine.unwomen.org/en/digital-library/publications/06/2021/gender-and-wars-in-gaza-untangled.

91 - Preliminary UN data indicate that Israel's attacks on Gaza destroyed 1,148 housing units and severely damaged 1,026 beyond repair. A further 14,918 housing units suffered varying degrees of partial damage (Ibid., quoting Shelter Cluster: Palestine. Escalation of Hostilities – Gaza, May 2021 Dashboard. May 2021, https://www.un.org/unispal/document/shelter-cluster-palestine-escalation-of-hostilities-gaza-may-2021-update-3-non-un-document/).

92 - Ibid., p. 8.

93 - Norwegian Refugee Council, Gaza: The Impact of Conflict on Women, November 2015, p. 24, https://www.nrc.no/globalassets/pdf/reports/gaza---the-impact-of-conflict-on-women.pdf; Gisha-Legal Center for Freedom of Movement, Discrimination by Default: A Gender Analysis of Israel's Criteria for Travel Through Erez Crossing, December 2020, p. 13 https://gisha.org/UserFiles/File/publications/Discrimination_by_Default_EN.pdf; see also, Gisha-Legal Center for Freedom of Movement, The Concrete Ceiling: Women in Gaza on the Impact of the Closure on Women in the Workforce, March 2017, p. 10 https://www.gisha.org/UserFiles/File/publications/women_gaza_17/women_gaza_17_en.pdf (noting, for example, that "Ever since 2007, travel in and out of Gaza has been limited to what Israel considers to be exceptional humanitarian circumstances. Israel has also restricted the transport of goods into and out of Gaza, leading to the near complete collapse of Gaza's economy, some of the highest unemployment rates in the world and a growing dependency on humanitarian aid. One of the exceptions to the closure is a small number of businesspeople who are able to exit Gaza in order to sell goods outside it. Women, however, who are more likely to work in civil society organizations or the public service sector, or manage small businesses, do not meet Israel's criteria for permits to exit or sell goods. As a result, women who, in the past, worked or sold their goods outside Gaza have found themselves without work and without a livelihood.").

94 - Human Rights Committee, Concluding observations on the fourth periodic report of Israel, CCPR/C/ISR/CO/21 ,4 November 2014, para. 12, https://www.ohchr.org/en/documents/concluding-observations/ccprcisrco-4concluding-observations-fourth-periodic-report-israel.

considerable adverse impact on Palestinian women's ability to organize, engage in collective action, and advocate for their rights and freedoms. [95] Even prior to this criminalization, the CEDAW Committee had raised concerns in 2017 with respect to Palestinian (and Israeli) women human rights defenders and non-governmental organizations working on gender equality and women's empowerment being "subjected to severe restrictions on their activities, including through limitations on their financing". [96]

13.f. Apartheid

89. Israel is in violation of the international law prohibition of apartheid through the creation and perpetuation of discriminatory policies and practices that are systematically applied to the Palestinian people, with the intention of creating a regime of Jewish supremacy over the Palestinian people. This conclusion was affirmed by multiple Palestinian, Israeli and international human rights organizations in reports that have documented, in great detail, Israeli policies and practices that amount to apartheid, including Al-Haq, [97] Al-Mezan, [98] B'Tselem, [99]

95 - The Union of Palestinian Women's Committees is an umbrella organization for Palestinian women's groups in the OPT (Union of Palestinian Women's Committees, https://upwc.org.ps).

96 - CEDAW Committee, Concluding Observations on the Sixth Periodic Report of Israel, CEDAW/C/ISR/CO/17 ,6 November 2017, para. 39-38, https://www.ohchr.org/en/documents/concluding-observations/cedawcisrco-6concluding-observations-sixth-periodic-report-israel

97 - Al-Haq, Israeli Apartheid: Tool of Zionist Settler Colonialism, 29 November 2022, https://www.alhaq.org/advocacy/20931.html; Al-Haq, Addameer, and Habitat International Coalition – Housing and Land Rights Network, Entrenching and Maintaining an Apartheid Regime over the Palestinian People as a Whole, January 2022, https://www.alhaq.org/advocacy/19415.html.

98 - Al-Mezan, The Gaza Bantustan: Israeli Apartheid in the Gaza Strip, November 2021, https://mezan.org/uploads/upload_center/kLAkShfIAra2.pdf.

99 - B'Tselem, A Regime of Jewish Supremacy: This is Apartheid, 12 January 2021.

Yesh Din, [100] Human Rights Watch, [101] Amnesty International, [102] and others. [103]

90. The Mandate of the United Nations special rapporteur on human rights in the Palestinian territories occupied since 1967, and the United Nations Economic and Social Commission for Western Asia, have concluded that Israel's discriminatory policies and practices amount to the crime of apartheid. [104]

91. Multiple UN treaty bodies have expressed grave concerns with regards to Israeli discriminatory policies and practices against the Palestinian people. For example, the CERD, in its 2012 review of Israel, expressed grave concerns at the consequences of policies and practices which amount to de "facto segregation", [105] and called on Israel "to eradicate all forms of segregation between Jewish and non-Jewish communities," and to "to take immediate measures to prohibit and eradicate any such policies or practices which severely and disproportionately affect the Palestinian population in the Occupied Palestinian Territory," finding

100 - Yesh Din, The Occupation of the West Bank and the Crime of Apartheid: A Legal Opinion, 9 June 2020, https://www.yesh-din.org/en/the-occupation-of-the-west-bank-and-the-crime-of-apartheid-legal-opinion/.

101 - Human Rights Watch, A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution", 27 April 2021, https://www.hrw.org/report/27/04/2021/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution.

102 - Amnesty International, Israel's Apartheid against Palestinians, 1 February 2022, https://www.amnesty.org/en/latest/campaigns/02/2022/israels-system-of-apartheid/.

103 - See, e.g., International Human Rights Clinic at Harvard Law School and Addameer, Apartheid in the Occupied West Bank: A Legal Analysis of Israel's Actions, 28 February 2022, http://hrp.law.harvard.edu/wp-content/uploads/03/2022/IHRC-Addameer-Submission-to-HRC-COI-Apartheid-in-WB.pdf.

104 - See Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967,
S. Michael Lynk, A/HRC/21 ,87/49 March 2022 (advanced unedited version), paras. 56-51 (Conclusions), https://www.ohchr.org/en/documents/country-reports/ahrc-4987report-special-rapporteur-situation-human-rights-palestinian; Report of the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, Francesca P. Albanese, A/21 ,356/77 September 2022, paras. 74 ,70 ,40, https://www.ohchr.org/en/documents/country-reports/a-77356situation-human-rights-palestinian-territories-occupied1967-; Economic and Social Commission for Western Asia ("ESCWA"), Israeli Practices towards the Palestinian People and the Question of Apartheid: Palestine and the Israeli Occupation, Issue No. 1, E/ESCWA/ECRI/2017 ,1/2017,
https://oldwebsite.palestine-studies.org/sites/default/files/ESCWA28%20%202017%Richard20%Falk2%29%C20%Apartheid.pdf.

105 - CERD, Consideration of reports submitted by States parties under article 9 of the Convention: Concluding Observations, CERD/C/ISR/CO/19 ,16-14 March 2012, para. 24, https://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.16-14.pdf.

them to be in violation of article 3 of ICERD. [106] More recently in 2020, the CERD noted with concern the "existence in the OPt of two entirely separate legal systems and sets of institutions for Jewish communities in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand". [107] The UN Human Rights Committee also expressed concerns in 2014 that "the Jewish and non-Jewish population are treated differently in several regards". [108]

14. Different forms of illegality

92. The terms "illegal occupation" and "unlawful occupation" are ambiguous, as they can refer to either existential illegality, illegality in conduct, or both. Existential illegality pertains to the occupation's denial of self-determination or its invalid purposes, such as annexation or self-defense. Illegality in conduct refers to specific breaches of international law. It is crucial to address the full legal context when assessing the occupation's legality, ensuring that key features are placed correctly within legal frameworks and recognizing when terms like "legality" or "illegality" are used narrowly.

15. Importance of the correct starting point: everything Israel does in the West Bank and the Gaza Strip lacks a valid international legal basis and is an illegal exercise of authority, not just those things that violate the rules applicable to the conduct of the occupation

15.a. Illegal exercise of authority as a general matter

93. A fundamental consequence of the existential illegality of the occupation is

106 - Ibid., para. 11.

107 - CERD, Concluding Observations on the Combined Seventeenth to Nineteenth Reports of Israel, CERD/C/ISR/CO/27 ,19-17 January 2022, para. 22, https://www.ohchr.org/en/documents/concluding-observations/cerdcisrco-19-17committee-elimination-racial-discrimination.

108 - Human Rights Committee, Concluding observations on the fourth periodic report of Israel, CCPR/C/ISR/CO/21 ,4 November 2014, para. 7, https://www.ohchr.org/en/documents/concluding-observations/ccprcisrco-4concluding-observations-fourth-periodic-report-israel.

that, necessarily, everything Israel does in Gaza and the West Bank (including East Jerusalem) lacks a valid international legal basis, and is an illegal exercise of authority, not just those things which violate the law regulating the conduct of the occupation. Just as the existence of the conduct-regulatory framework does not provide a basis for Israel to maintain the occupation, so too, if the occupation is maintained by Israel, as it is currently, the fact that the substantive norms of this regulatory framework do then entitle and indeed require Israel to do certain things does not alter the more fundamental position that Israel lacks any legal authority to do anything, and whatever it therefore does is illegal, even if it is compliant with and pursuant to the rules of the conduct-regulatory framework. Thus, the United Nations Human Rights Committee observed in para. 70 of its 2019 General Comment 36 on the right to life in the International Covenant on Civil and Political Rights (to which Israel is a party) that a State engaging in a use of force that constitutes aggression—i.e., one that is existentially illegal in this way according to the jus ad bellum, as in the present case—violates ipso facto the obligation in the Covenant not to engage in the arbitrary deprivation of life. [109] In other words, in an illegal use of force, every violation of the right to life is, necessarily, 'arbitrary' (i.e. lacking in legally valid justification) and therefore illegal as a violation of the Covenant.

15.b. Interplay between ad bellum and in bello legality

94. How can international law simultaneously say that the very existence of the occupation is illegal, and that Israel is required and entitled to do certain things during it? How can, for example, Israel be understood to be entitled to use necessary and proportionate force to promote public order in the West Bank (according to IHL and potentially also IHRL) if its very presence there, including when it comes to public order functions, is an illegal use of force (according to the jus ad bellum)—and in consequence, following the logic of the UN Human Rights Committee, a particular public order action, involving lethal force that is necessary and proportionate, and otherwise also IHL compliant, is illegal in

109 - Human Rights Committee, General Comment 36, CCPR/C/GC/3 ,36 September 2019, para. 70.

human rights law?

95. The law operates at two levels: one addressing the use of force and its legality (jus ad bellum), and the other regulating the conduct of force (jus in bello). International Humanitarian Law (IHL) applies equally to states, whether their use of force is lawful or unlawful in jus ad bellum terms, aiming to curb excesses in war. Human rights law also applies extraterritorially, regardless of legality. The goal is to ensure that states act humanely by prohibiting "inhumane" actions, whether their force is justified or not. This dual approach allows for specific rules and enforcement mechanisms to prevent inhumane conduct, universally applied to all belligerents.

96. For Israel, International Humanitarian Law (IHL), including occupation law, provides no legal justification for its actions during the occupation, as its very presence violates fundamental legal principles. Violations of IHL, though significant, do not address the core issue: Israel's occupation is illegal for more fundamental reasons than the specific rules IHL regulates (e.g., military necessity, proportionality). Analyzing incidents solely in terms of IHL compliance distorts the legal picture, suggesting that an IHL-compliant incident is lawful or an IHL-violating incident is only illegal due to the IHL breach. The true illegality lies in the absence of Israel's valid authority to impose restrictions, such as those at checkpoints, in the first place.

15.c. Example: the 2022 killing of Shireen Abu Akleh and the attack on her pallbearers

97. In May 2022, the killing of Palestinian-American journalist Shireen Abu Akleh and the subsequent attack on her pallbearers by Israeli soldiers sparked widespread outrage. Both critics and Israel approached these incidents through the lens of International Humanitarian Law (IHL) and International Human Rights Law (IHRL). The focus was on whether the force used was justified within these legal frameworks: for the killing, the analysis centered on whether journalists

could be targeted or if the killing was permissible as collateral damage; for the pallbearer attack, the question was whether there was a legitimate security concern and whether the response was necessary and proportionate. Critics argued that both breaches occurred, while Israel maintained compliance with these laws. This shared focus on IHL and IHRL framed the way the incidents were understood and assessed.

98. Focusing solely on specific incidents, like Shireen Abu Akleh's killing and the violence against her pallbearers, misses the broader context: these acts occurred because Israeli soldiers were present in occupied territories. The occupation itself is a systemic form of oppression and violence, rooted in illegitimate authority. This perspective, grounded in jus ad bellum and the law of self-determination under IHRL, renders the occupation and all actions within it inherently unlawful.

15.d. Different actors and different obligations

99. The legal position may cause confusion, as soldiers typically follow IHL and IHRL standards, but not the full legal framework that ensures lawful conduct. However, international law primarily targets the State of Israel, not individual soldiers, except for certain standards on occupation conduct. Soldiers are trained to follow these standards, with the crime of aggression being the key exception. This crime applies to senior officials who control or direct state actions, as outlined by the Rome Statute for the ICC. [110]

100. The effect of these differences is to disaggregate the legal framework in a manner that corresponds to the different determinative roles that actors play. Those in a position to determine the continued existence of the occupation, whether in civilian or military positions, are potentially subject to an international criminal sanction—the crime of aggression—for their role in this continued existence. The State of Israel is legally responsible under the jus ad bellum and the law of self-determination. It is the responsibility of Israel's leaders to ensure compliance with these obligations. If they fail, and the occupation persists, both the leaders and the

110 - Rome Statute, Art. 8bis 1.

State are legally responsible for the unlawful presence and authority of soldiers in the West Bank. Individual soldiers, however, are only legally accountable for their compliance with IHL, as dictated by their training and authority limits. Any deprivation of life by these soldiers that does not breach IHL is still an unlawful violation of the right to life under human rights law, with responsibility lying with the State or its leaders, especially in cases of aggression. The State must end the occupation to avoid violations of human rights law, and leaders must direct State policy to prevent the crime of aggression.

16. Israel's violations are 'serious' breaches of peremptory/jus cogens/non-derogable obligations

101. A serious breach of a peremptory norm of international law is defined in Article 41, paragraph 2, of the ARSIWA as being "a gross or systemic failure by the responsible State to fulfil the obligation" concerned. [111] The commentary notes:

To be considered systematic, a violation must be carried out in an organized and deliberate manner. "Gross" refers to the intensity or effect of the violation, signifying a direct and flagrant assault on protected values. While the terms are not mutually exclusive, serious breaches are often both systematic and gross. Factors establishing the seriousness of a violation include the intent to breach the norm, the scope and number of violations, and the gravity of their impact on victims. Certain peremptory norms, such as prohibitions against aggression and genocide, inherently require large-scale intentional violations. [112]

102. Violations of the following peremptory norms are of their nature 'systemic', necessarily involving an intentional violation on a large scale. Their violation by Israel is, thus, by definition 'serious'.

111 - ARSIWA, Art. 2)41). See also ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19, para. 3, and ARSIWA, Part Two, Ch. III, Art. 41 Commentary; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19 Commentary.

112 - ARSIWA, Part Two, Ch. III, Art. 40 Commentary, para. 8.

(1) Self-determination. [113]

(2) Aggression. [114]

(3) Apartheid.

103. Violations of the following peremptory norms are of their nature 'gross', necessarily being of a flagrant nature, amounting to a direct and outright assault on the values protected by the rule. Their violation by Israel is, thus, by definition 'serious'.

(1) The 'core/basic' protective rules of IHL, which are classified as 'serious violations' (and in consequence states bear special obligations to suppress them through individual criminal responsibility, and international criminal jurisdiction for them is provided by the ICC—the concept of 'war crimes'). As indicated above, the prohibition of implanting settlements in occupied territory is one such rule.

104. Israel's violations of the following two peremptory norms have been both gross and systematic, as has been widely documented, including by various United Nations bodies, the evidence of which having been submitted to the Court by the United Nations in the present proceedings. [115] These violations are, therefore, 'serious.'

(1) The prohibition of racial discrimination generally (beyond what is covered by apartheid).

113 - The commentary to article 41 of the ARSIWA, regarding the consequences for serious breaches, notes that there is an obligation of "collective non-recognition by the international community as a whole of the legality of situations resulting directly from serious breaches". As a direct example, it provides "[t]he obligation applies to "situations" created by these breaches, such as, for example, attempted acquisition of sovereignty over territory through the denial of the right of self-determination of peoples". In this example, then, a denial of the right of self-determination is being posited as a 'serious breach' (ARSIWA, Part Two, Ch. III, Art. 41 Commentary, para. 5).

114 - On the particular breach here involved in Israel's use of force for annexation purposes, it is notable that the UN Human Rights Council referred to the "serious breaches of peremptory norms of international law by Israel…the prohibition of the acquisition of territory by force" (Human Rights Council Res. 11 ,28/49 April 2022, preamble, para. 7).

115 - See UN Dossier.

(2) The prohibition of torture and cruel, inhuman and degrading treatment and punishment.

PART 4: CONSEQUENCES

17. Invalidity, and implications for individual rights

17.a. Invalidity generally

17.a.i. All unlawful acts are invalid

105. A basic postulate of law is that actions which are unlawful or which are not pursuant to a valid legal entitlement are invalid—without legal effect. This is linked to the general legal principle of ex injuria jus non oritur—legal rights cannot arise out of an illegal act.

17.a.ii. Everything Israel does in the OPT is invalid because the occupation is existentially illegal

106. The illegal nature of Israel's presence and exercise of authority in the West Bank, including East Jerusalem, and Gaza, necessarily means that, a general matter, everything that Israel has done and is doing there—including, in the case of certain parts of the West Bank, decisions involving the full-spectrum of territorial administration matters, from the question of land ownership to issues of cultural heritage—on whatever basis (including, potentially, an ostensibly purportedly sovereign basis when it comes to East Jerusalem) is legally invalid.

107. The relationship between the existential illegality of the occupation (not merely the illegality of Israel's exercise of sovereignty in East Jerusalem, but its broader authority over Palestinian territories) and the regulatory framework of occupation law must be carefully examined. It is essential to prioritize the more fundamental issue—whether Israel should be engaged in the occupation at all—before addressing what occupation law permits and requires. Furthermore, when considering occupation law, it must be interpreted in the context of the overarching

legal position. For instance, occupation law's requirement for an occupier to maintain the status quo in occupied territories must be understood in light of the potential stakes involved, particularly the Palestinian people's right to self-determination, a jus cogens right in international law.

108. On the specific issue of freedom of movement within, and freedom of entry and exit to and from, the West Bank (including East Jerusalem) and Gaza, of people and goods (including aid), it is important to note the following.

(1) Israel's decisions and practices regarding movement, entry, and exit of people and goods in the occupied territories violate not only the conduct-regulatory laws (such as occupation law) but also international law as a whole. These actions are inherently illegal because Israel has no legal entitlement to exercise authority over these territories. Therefore, beyond the breaches of specific conduct-regulatory law, Israel's authority over these areas is a direct violation of the law on the use of force and the law of self-determination. This illegality stems from the mere exercise of authority, not just from any invalid attempt to assert sovereignty. In essence, Israel's imposition of movement restrictions in the West Bank and Gaza is illegal not only because it is not the territorial sovereign but because it has no legal right to exert non-sovereign authority over these areas.

(2) As a result, any actions Israel takes to regulate or restrict the movement of people, goods, or aid within or between the West Bank (including East Jerusalem) and Gaza are legally invalid. Israel has no international legal entitlement to impose such restrictions. This situation differs significantly from a State exercising authority over its own territory or over non-sovereign territory where it has a lawful international basis to do so. In this case, Israel lacks the international legal capacity to prevent the entry, exit, or movement of individuals or goods in these areas for any reason.

17.a.iii. Affirmations of invalidity by the UN General Assembly and Security Council

109. The invalidity of that which Israel has done which is illegal has been

confirmed as such by the General Assembly and the Security Council. On settlements, for example, the General Assembly deemed Israel's establishment of settlements in the OPT to have "no legal validity". [116] The Security Council "determined that the policies and practices of Israel in establishing settlements in the Palestinian and Arab territories occupied since 1967 have no legal validity". [117] On the broader annexationist, settler-colonial enterprise, the Security Council found that measures taken by Israel to "change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, have no legal validity". [118]

17.b. Individual rights

17.b.i. The 'Namibia exception'

110. Whereas everything done by Israel under the occupation has been and is invalid as a general matter, human rights law requires that certain consequences of this be treated as legally valid for individuals, if to do otherwise would violate their rights in human rights law. This approach was adopted by the present Court in the Namibia Advisory Opinion, in the context of one of the key consequences of validity and invalidity—the position that should be taken by third States in terms of recognition. The Court observed that:

…the non-recognition of South Africa's administration of the Territory should not result in depriving the people of Namibia of any advantages derived from international co-operation. In particular, while official acts performed by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid, this invalidity cannot be extended to those acts, such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the

116 - GA Res. 23 ,2334 December 2016, para. 1.

117 - SC Res. 22 ,446 March 1979, para. 1. See also SC Res. 20 ,(1979) 452 July 1979, preamble.

118 - SC Res. 1 ,465 March 1980, preamble.

inhabitants of the Territory. [119]

17.b.ii. Settlers

111. The issue is complicated by the presence of Israeli settlers in the OPT, whose rights under human rights law need careful assessment. A common but incorrect view is that the application of human rights law to Israel in the West Bank, including East Jerusalem, allows settlers to claim rights—such as land and property—that they would not otherwise have. These claims are often based on administrative and judicial decisions made by Israel, which may be discriminatory and rely on illegal authority. This misconception suggests that human rights law supports settler colonialism and weakens the effectiveness of international law in condemning it.

112. This view is incorrect for several reasons. The legal regime governing the occupation combines human rights law with international humanitarian law (IHL), including occupation law, which distinguishes between the Palestinian population and Israeli settlers. Additionally, individuals do not have the human right to benefit from unlawful discrimination. On the contrary, such discrimination necessitates the removal of benefits gained through it. A core legal principle also dictates that if something is unlawfully taken from its rightful owner, valid title cannot be transferred to a third party. Moreover, human rights law, particularly regarding land and property, freedom of movement, and residence, requires a context-specific balancing of conflicting rights and permissible restrictions. This contextual approach leads to different legal outcomes in similar situations, depending on the group involved and how the context applies to them.

113. Context here includes not only IHL and occupation law but also the prohibition on racial discrimination and apartheid, alongside the right of self-determination—rights with non-derogable status. In the West Bank, the right of self-determination belongs to the Palestinian people, who live on land that constitutes the basis of this right. Conversely, Israeli settlers' presence in the West Bank is illegal under international law. Treating the human rights of both groups

119 - Namibia Advisory Opinion, p. 56, para. 125.

as identical overlooks this distinction. While Israeli settlers retain human rights in the West Bank as individuals, the legal context of their status as settlers affects the substantive meaning of certain rights.

18. Consequences for the Palestinian people: the right to resist

114. One of the main legal consequences for the Palestinian people of Israel's violation of their right to self-determination through the occupation is that they have a legal right, as a matter of customary international law, arising out of their right to self-determination, to resist the occupation.

115. The fact that this right exists for a people in such a situation was assumed when the General Assembly stated, in the Friendly Relations and Co-operation Declaration, that

In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter. [120]
In its earlier General Assembly in Resolution 2105 (XX), dated 20 December 1965, the General Assembly recognized
…the legitimacy of the struggle of peoples under colonial rule to exercise their right of self-determination, and invites all states to provide material and moral assistance to the national liberation movements in colonial territories. [121]

In Resolution 2649 (XXV), 30 November 1970, the General Assembly

Affirms the legitimacy of the struggle of peoples under colonial and foreign domination recognized as being entitled to the right of self-determination to restore to themselves that right by any means at their disposal … [and] Recognizes the right of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination to seek and receive all kinds of moral and

120 - Friendly Relations and Co-operation Declaration (1970).

121 - GA Res. 2105 (XX), 20 December 1965, para. 10.

material assistance, in accordance with the resolutions of the United Nations and the spirit of the Charter of the United Nations. [122]

In Resolution 3070 (XXVIII) of 30 November 1973, the General Assembly

…reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle … [and] calls upon all States, in conformity with the Charter of the United Nations and with relevant resolutions of the United Nations, to recognize the right of all peoples to self-determination and independence and to offer moral, material and any other assistance to all peoples struggling for the full exercise of their inalienable right to self-determination and independence. [123]

In Resolution 35/35A, dated 14 November 1980, the General Assembly

Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle. [124]

116. The Assembly has invoked the right in the particular context of the Palestinian struggle. In Resolution 2787 (XXVI), dated 6 December 1971, it Confirms the legality of the people's struggle for self-determination and liberation from colonial and foreign domination and foreign subjugation … in particular that of … the Palestinian people by all available means consistent with the Charter of the United Nations. [125]

117. In his separate opinion in the Namibia case before the present Court, Judge Ammoun wrote that it is "beyond dispute" that "the conscious action of

122 - GA Res. 2649 (XXV), 30 November 1970, paras. 2-1.

123 - GA Res. 3070 (XXVIII), 30 November 1973, paras. 3-2.

124 - GA Res. 14 ,35/35 November 1980, para. 2.

125 - GA Res. 2787 (XXVI), 6 December 1971, para. 1.

the peoples themselves, engaged in a determined struggle … for the purpose of asserting … the right of self-determination," is a "general practice" which might be held, beyond dispute, to constitute law within the meaning of Article 38, paragraph 1 (b), of the Statute of the [present] Court". [126]

19. Consequences for Israel

19.a. Introduction

118. As the present Court explained in the 1971 Namibia Advisory Opinion, "the qualification of a situation as illegal does not by itself put an end to it". [127] Rather, it is a "first, necessary step in an endeavour to bring the illegal situation to an end". [128] A determination of illegality cannot remain without consequences, and thus when a State violates its international obligations, as the present Court indicated in the Wall Advisory Opinion: "it follows that the responsibility of that State is engaged under international law". [129]

119. This section addresses the three obligations Israel must fulfil as the State responsible for the internationally wrongful acts set out in the previous Part. These obligations are:

(1) Cessation; [130]

(2) making guarantees of non-repetition; [131]

126 - Namibia Advisory Opinion (1971), Separate Opinion of Judge Ammoun, p. 74.

127 - Namibia Advisory Opinion (1971), p. 52, para. 111.

128 - Ibid.

129 - Wall Advisory Opinion (2004), p. 197, para.147. This is reflected in Article 1 of the ARSIWA: "Every internationally wrongful act of a State entails the international responsibility of that State" (ARSIWA, Art. 1).

130 - See ARSIWA, Art. 30(a).

131 - See ARSIWA, Art. 30(b).

(3) reparation, [132] which can come in the form of restitution, [133] compensation, [134] and/or satisfaction. [135]

19.b. Cessation: Israel must put an end to the unlawful situation immediately

19.b.i. General duty

120. Israel as the State responsible for the internationally wrongful acts set out in the previous Part must cease these acts and end the violations. [136] This duty is vital. Not only is it a necessary step on the path to eliminating the consequences of Israel's wrongful conduct. Also, it safeguards the continuing validity and effectiveness of the rules that have been violated. In this way, in the words of the ILC ARSIWA Commentary, it "protects both the interests of the injured State or States and the international community as a whole in the preservation of, and reliance on, the rule of law". [137]

121. As the present Court indicated in the Wall Advisory Opinion, the duty of cessation "is well established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation". [138]

19.b.ii. Immediacy

132 - See ARSIWA, Art. 31.

133 - See ARSIWA, Art. 35.

134 - See ARSIWA, Art. 36.

135 - See ARSIWA, Art. 37.

136 - See ARSIWA, Art. 30(a).

137 - ARSIWA, Part Two, Ch. I, Art. 30 Commentary, para. 5.

138 - Wall Advisory Opinion (2004), p. 197, para. 150. See also, Haya de la Torre Case, Judgment of June 13th, 1951, I.C.J. Reports 1951, p. 71 at p. 82 ("This decision entails a legal consequence, namely that of putting an end to an illegal situation"); Jurisdictional Immunities of the State (Germany v. Italy), Judgment of 3 February, 12, I.C.J. Reports 2012, p. 99 at p. 153, para. 137 (referring specifically to ARSIWA Article 30(a)); see also Rainbow Warrior (New Zealand v. France), Arbitration Award, 30 April 1990, para. 114; Libyan Arab Foreign Investment Company (LAFICO) and the Republic of Burundi, Arbitration Award, 4 March 1991, para. 61 (noting that the obligation to put to an end a wrongful act that constitutes a violation of customary international law is "not in doubt").

122. The present Court has repeatedly affirmed that the duty of cessation constitutes an obligation to take immediate steps to put an end to the continuing wrongful act. In the 1980 United States Diplomatic and Consular Staff in Tehran case, the present Court held that Iran had violated, and was continuing to violate, several obligations owed to the USA under international law, [139] and ordered Iran to "immediately terminate the unlawful detention of the United States Chargé d'affaires and other diplomatic and consular staff and other United States nationals now held hostage in Iran" (emphasis added). [140] In the
2009 Navigational and Related Rights case, the present Court explained:
[I]t should be recalled that when the Court has found that the conduct of a State is of a wrongful nature, and in the event that this conduct persists on the date of the judgment, the State concerned is obliged to cease it immediately [emphasis added]. [141]

123. The immediate nature of the cessation requirement is further illustrated when the requirement has been affirmed in the context of the following situations: first, illegality as a matter of the use of force and, second, illegality as a matter of self-determination.

19.b.iii. Immediacy in ending violations of the use of force including when this involves an occupation

124. In the Military and Paramilitary Activities in and against Nicaragua case, in the context of a finding that the USA violated international law through its use of force and military and paramilitary activities within Nicaragua, the present Court held that the USA is "under a duty immediately to cease and to refrain from all such acts as may constitute breaches" of its legal obligations (emphasis added).

139 - United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran), Judgment, I.C.J. Reports 1980, p. 3 at pp. 42-41, para. 90.

140 - Ibid., p. 44, para. 95.

141 - Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua), Judgment, I.C.J. Reports 2009, p. 213 at p. 267, para. 148.

19.b.iv. Immediacy in ending violations of self-determination through unlawful territorial control

125. In the 1971 Namibia Advisory Opinion concerning South Africa's unlawful control over the territory and people of Namibia, the present Court held that "South Africa, being responsible for having created and maintained a situation which the Court has found to have been validly declared illegal, has the obligation to put an end to it" and "the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory" (emphasis added). [143]

126. In the 2019 Chagos Advisory Opinion, the present Court, having determined that the UK's exercise of control over the Chagos Archipelago was a violation of the law of self-determination, held that "the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible..." (emphasis added). [144] Following the Court's decision, the General Assembly adopted Resolution 73/295, demanding that, in accordance with the Court's Advisory Opinion, the United Kingdom "withdraw its colonial administration from the Chagos Archipelago unconditionally within a period of no more than six months from the adoption of the present resolution, thereby enabling Mauritius to complete the decolonization of its territory as rapidly as possible". [145]

19.b.v. Israel's position

19.b.v.α. General requirement

142 - Military and Paramilitary Activities in and against Nicaragua Merits Judgment (1986), p. 149, para. 292, sub-para. 12.

143 - Namibia Advisory Opinion (1971), p. 54, para. 118 and p. 58, para. 133.

144 - Chagos Advisory Opinion (2019), p. 139, para. 178.

145 - GA Res. 24 ,295/73 May 2019, para. 3.

127. Based on the foregoing general principles of State responsibility, Israel must immediately end all the violations of international law outlined in the previous Part.

19.b.v.β. Ending the occupation immediately

128. Fundamentally, this means Israel is under obligation to withdraw its presence and administration entirely from the occupied Palestinian territory immediately. As indicated above, the right of self-determination being violated by the existence of the occupation is to be realized immediately. This realization cannot therefore be made subject to any qualifications, in terms of its temporal character, on any basis. There is, then, no back-door legal basis on which Israel can avoid a requirement to terminate the occupation immediately.

129. This is a material, physical and kinetic requirement of a complete and total end to the Israeli presence and exercise of control and authority in and over the OPT. It includes personnel, notably the armed forces, and also the infrastructure and technology of the occupation, notably checkpoints and surveillance.

130. It is also a requirement applicable to Israeli law and policy: the State should immediately terminate all its political, administrative and legal arrangements that purport to apply in and exercise authority over the OPT. This includes immediately ceasing to apply laws, jurisdiction, and administration—including military and court orders—within the OPT.

131. Within the foregoing is an obligation to cease any activity concerned with altering the legal status of any part of the OPT, including East Jerusalem. Thus, the General Assembly called upon Israel to "rescind all measures already taken and to desist forthwith from taking action which would alter the status of Jerusalem". [146]

132. The legal requirement to immediately terminate the occupation is reflected in and reinforced by determinations by the United Nations General Assembly and

146 - GA Res. 4 ,2253 July 1967, para. 2.

Security Council.

133. The General Assembly has on numerous occasions called for the end of the occupation. In Resolution 2628 of 4 November 1970, for instance, it stated that it:

1. Reaffirms that the acquisition of territories by force is inadmissible and that, consequently, territories thus occupied must be restored;

2. Reaffirms that the establishment of a just and lasting peace in the Middle East should include the application of both the following principles:

(a) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(b) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and its right to live in peace within secure and recognized boundaries free from threats or acts of force. [147]

In Resolution 3414, the Assembly likewise stated that it:

1. Reaffirms that the acquisition of territory by force is inadmissible and therefore all territories thus occupied must be returned;
2. Condemns Israel's continued occupation of Arab territories in violation of the Charter of the United Nations, the principles of international law and repeated United Nations resolutions. [148]

The call for Israel to withdraw from the OPT has been reiterated in numerous other General Assembly resolutions, including Resolutions 32/20 (1977), 33/29 (1978), 34/70 (1979), 35/207 (1980), 36/226A (1981), 38/180A (1983), 45/83A

147 - GA Res. 4 ,2628 November 1970, paras. 2-1

148 - GA Res. 5 ,3414 December 1975, paras. 2-1.

(1990), ES-10/18 (2009), and 77/247 (2022). [149]

134. The Security Council has, on several occasions, called for the withdrawal of Israeli forces from the OPT. [150] As indicated earlier, in Resolution 242 of 22 November 1967, the Council stated that it:

1. Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political

149 - GA Res. 25 ,20/32 November 1977, preamble, para. 2 (calling for Israeli "withdrawal from all Arab territories occupied since 5 June 1967"); GA Res. 7 ,29/33 December 1978, paras. 3-2 (calling for "Israeli withdrawal from all the occupied Palestinian and other Arab territories"); GA Res. 6 ,70/34 December 1979, paras. 4 ,2 (calling for "Israeli withdrawal from all the occupied Arab and Palestinian territories, including Jerusalem); GA Res. 16 ,207/35 December 1980, para. 1 (calling for "immediate, unconditional, and total withdrawal of Israel from all these occupied territories") and para. 4 (calling for "complete and unconditional withdrawal from all the Palestinian and other Arab territories since June 1967); GA Res. 226/36A, 17 December 1981, preamble ("reiterating that… Israel must withdraw unconditionally from all occupied Palestinian and other Arab territories, including Jerusalem), para. 1 ("demands immediate unconditional and total withdrawal of Israel from all these occupied territories"), and para. 4 (calling for "complete and unconditional withdrawal of Israel from the Palestinian and other Arab territories occupied since 1967, including Jerusalem"); GA Res. 180/38A, 19 December 1983, para. 11 (calling for "total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem"); GA Res. 83/45A, 13 December 1990, preamble ("Israel must withdraw unconditionally from the Palestinian territory occupied since 1967, including Jerusalem, and the other occupied Arab territories"), para. 1 (reaffirming the necessity of "immediate, unconditional, and total withdrawal of Israel from the Palestinian territory occupied since 1967, including Jerusalem, and the other occupied Arab territories"), para. 3 (calling to ensure "the complete and unconditional withdrawal of Israel from the Palestinian territory occupied since 1967, including Jerusalem, and the other occupied Arab territories"), and para. 5 (demanding "immediate, unconditional, and total withdrawal of Israel from all the territories occupied since 1967); GA Res. ES,18/10-16 January 2009, para. 1 (demanding "full withdrawal of Israeli forces from the Gaza strip"); GA Res. ,247/77 30 December 2023, para. 6 (affirming the right of the Palestinian people to achieve "without delay an end to the Israeli occupation that began in 1967").

150 - SC Res. 22 ,242 November 1967; SC Res. 3 ,267 July 1969 (Concerning the status of Jerusalem and reaffirming that the acquisition of territory by military conquest is inadmissible); SC Res. 15 ,271 September 1969 (reaffirming that the acquisition of territory by military conquest is inadmissible); SC Res. 25 ,298 September 1971 (noting with concern Israeli non-compliance with previous resolutions); SC Res. 30 ,476 June 1980 (e.g., Art. 1 reaffirms the "overriding necessity for ending the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem"); SC Res. 8 ,1860 January 2009 (e.g. Art.

1 "stresses the urgency of and calls for an immediate, durable and fully respected ceasefire, leading to the full withdrawal of Israeli forces from Gaza").

independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.[151]

19.b.v.γ. Return and freedom of movement

135. Israel must immediately cease preventing Palestinian refugees from exercising their right to return to their homes, land, and towns. It must also stop obstructing their movement between Gaza and the West Bank by ensuring automatic, safe, and free passage through Israeli territory. This is essential to remedy the violations of the rights to self-determination, freedom of movement, freedom of religion, and return, which are caused by the ongoing separation of Gaza and the West Bank through Israeli territorial control.

136. The Security Council has demanded, in Resolution 799 of 18 December 1992, that Israel "ensure the safe and immediate return to the occupied territories of all those deported". [152]

19.b.v.δ. Settlements

137. All settlement activity should cease. The Security Council, having referenced the legal invalidity of Israel establishing the settlements, called upon "Israel, as the occupying Power, to abide scrupulously by the Fourth Geneva Convention…" and to "rescind its previous measures" [i.e., establishing the settlements]. [153] It further called upon Israel "to cease, on an urgent basis, the establishment, construction and planning of settlements". [154] It later demanded "that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard".[155]

151 - SC Res. 22 ,242 November 1967, para. 1.

152 - SC Res. 18 ,799 December 1992, para. 4.

153 - SC Res. 22 ,446 March 1979, para. 3.

154 - SC Res. 20 ,452 July 1979, para. 3; SC Res. 1 ,465 March 1980, para. 6.

155 - SC Res. 23 ,2334 December 2016, para. 2.

138. The General Assembly has repeatedly "Reiterate[d] its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem". [156]

139. The Security Council and the General Assembly have called on Israel to reverse these policies which requires the dismantlement of the settlements and the withdrawal of Israeli settlers from the Occupied Palestinian Territory, including East Jerusalem.

19.b.v.ε. Apartheid and racial discrimination generally

140. Israel is required to immediately cease all discriminatory policies and practices that amount to a violation of the prohibition of apartheid as outlined above. More broadly, Israel is required to immediately put an end of all discriminatory practices that privilege Jewish Israelis over the Palestinian people, on both sides of the Green Line and as regards Palestine refugees. [157]

19.b.v.στ. The wall

141. As for the wall, Israel is required to fulfil the present Court's own finding that Israel "has the obligation to cease forthwith the works of construction of the wall being built by it in the Occupied Palestinian Territory, including in an around East Jerusalem". [158] Moreover, the Court held that Israel must dismantle "those parts of the structure situated within the Occupied Palestinian Territory, in and around East Jerusalem". [159]

156 - GA Res. 23 ,2334 December 2016, para. 2; GA Res. 226/36/A, 17 December 1981, para. 1; GA Res. 83/45A, 13 December 1990, paras. 5,7.

157 - See, e.g., CERD, Consideration of reports submitted by States parties under article 9 of the Convention: Concluding Observations, CERD/C/ISR/CO/19 ,16-14 March 2012; CERD, Concluding Observations on the Combined Seventeenth to Nineteenth Reports of Israel, CERD/C/ISR/CO/27 ,19-17 January 2022; Human Rights Committee, Concluding observations on the fourth periodic report of Israel, CCPR/C/ISR/CO/21 ,4 November 2014.

158 - Wall Advisory Opinion (2004), p. 197, para. 151

159 - Ibid., pp. 198-197, para. 151.

19.c. Circumstances require that Israel must offer appropriate assurances and guarantees of non-repetition

142. The circumstances of Israel's breaches of international law are such as to require that Israel is obliged to offer assurances and guarantees of non-repetition. [160] These circumstances are:

(1) The nature of the obligations breached: rules of international law of a fundamental character—peremptory norms, as outlined above. [161]

(2) The nature of the breaches, [162] which can be divided into six factors:

• The duration of the breaches that spans over 75 years, through the policies and practices of all governments of Israel during that period.

• The widespread, systematic and structural nature of the breaches.

• The consistently repeated nature of the breaches, and repeated refusal to heed the calls to end them made by the Palestinian people generally and the Palestinian leadership and the State of Palestine in particular, the General Assembly, the Security Council, the Human Rights Council, the Economic and Social Council, the present Court, other UN bodies and office-holders including multiple Secretaries-General, other international organizations, and many States from all regions in the world, over a more than a half-century period covering, for the United Nations, almost two thirds of the time the organization has been in existence.

• The link between the breaches and unlawful claims that underlie and explain

160 - On this obligation, see ARSIWA, Art. 30(b), and ARSIWA, Part Two, Ch. I, Art. 30 Commentary.

161 - Cf. ARSIWA, Part Two, Ch. I, Art. 30 Commentary, para. 13, the "nature of the obligation" is relevant to whether guarantees are appropriate.

162 - Cf. ARSIWA, Part Two, Ch. I, Art. 30 Commentary, para. 13, the "nature of the…breach" is relevant to whether guarantees are appropriate.

their commission including: that Israel is entitled to the entire land between the Jordan river and the Mediterranean sea and that the Palestinian people do not have the right of self-determination.

• The way the breaches have worsened over decades, including in the course of the occupation, for example the quantum of settlements; the introduction of the Wall and the apartheid road system; the pillage of natural resources.

• The seriousness of the breaches as indicated above.

(3) The foregoing nature of the breaches suggest a real risk of future repetition even if they are initially brought to an end.

143. Bearing in mind what has been reviewed above, the situation is manifestly one where the injured party—the State of Palestine and the Palestinian people as a self-determination unit— and the international community have "reason to believe that the mere restoration of the pre-existing situation does not protect it satisfactorily". [163] Israel must, therefore, in addition to implementing the above obligations concerning cessation, give guarantees to the Palestinian people and the State of Palestine concerning non-repetition.

144. The present Court has taken seriously the need for injured States to be given guarantees of non-repetition. In the Armed Activities on the Territory of the Congo case, the Court held that it

…considers that, if a State assumes an obligation in an international agreement to respect the sovereignty and territorial integrity of the other States parties to that agreement (an obligation which exists also under general international law) and a commitment to cooperate with them in order to fulfil such obligation, this expresses a clear legally binding undertaking that it will not repeat any wrongful acts. In the Court's view, the commitments assumed by Uganda under the Tripartite Agreement must be regarded as meeting the DRC's request for specific guarantees and assurances of non-repetition. The Court expects and demands that

163 - See ARSIWA, Part Two, Ch. I, Art. 30 Commentary, para. 9.

the Parties will respect and adhere to their obligations under that Agreement and under general international law... [164]

In the Application of the Genocide Convention (Bosnia and Herzegovina v. Serbia and Montenegro) case, the Court assumed that there was a potentially valid general legal basis for requiring guarantees of non-repetition, holding that there were not sufficient grounds for this requirement to be triggered in the circumstances of the case:

In its final submissions, the Applicant requests that the Court direct Serbia and Montenegro to provide specific guarantees and assurances that it will not repeat the wrongful acts complained of, with the form of such guarantees to be determined by the Court. This submission pertains to all the wrongful acts, including breaches of the Genocide Convention, such as the Respondent's alleged failure to prevent genocide, and its involvement in complicity, conspiracy, and incitement. Since the Court has not upheld these claims, the submission is dismissed.

However, the Court considers whether it is appropriate to request guarantees and assurances of non-repetition in relation to the established breaches of the obligations to prevent and punish genocide. The Applicant's counsel presented concerns over "recent events," particularly movements in Serbia and Montenegro calling for genocide, as grounds for this request. The Court, however, finds that these concerns do not provide sufficient grounds for requiring guarantees of non-repetition. Therefore, the Court concludes that the declaration mentioned in paragraph 465 of the ruling is adequate regarding the Respondent's continuing duty to punish genocide, and it does not deem it necessary to direct guarantees of non-repetition. [165]

There would have been no need to consider whether “grounds” for guarantees were “sufficient” if there was no legal requirement to give such guarantees in the

164 - Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005, p. 256, para. 257.

165 - Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007, p. 235, para. 466.

first place. Thus the Court clearly assumed the existence of such a requirement. For the foregoing reasons, and to borrow the words of the Court, the present case is one in which a direction for guarantees of non-repetition would be appropriate.

19.d. Reparation

19.d.i. General obligation

145. Israel is obliged to make adequate reparation for its breaches of international law. In the words of the Permanent Court,

[t]he essential principle contained in the actual notion of an illegal act . . . is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed. [166]

146. This obligation has been applied by the present Court in varying contexts, including the current one. [167] In the Wall Advisory Opinion, the Court held:

[G]iven that the construction of the wall in the Occupied Palestinian Territory has, inter alia, entailed the requisition and destruction of homes, businesses and agricultural holdings, the Court finds further that Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned. [168]

166 - See Factory at Chorzów (Claim for Indemnity) (Merits), Judgment of 13 September 1928, P.C.I.J., Series A, No. 1928 ,17, p. 47.

167 - See, e.g., Application of Genocide Convention (Bosnia and Herzegovina v. Serbia and Montenegro) Judgment (2007), p. 232, para. 63-460; Jurisdictional Immunities of the State Judgment (2012), p. 153, para. 136 ("There is no doubt that the violation by Italy of certain of its international legal obligations entails its international responsibility and places upon it, by virtue of general international law, an obligation to make full reparation for the injury caused by the wrongful acts committed"). ARSIWA, Art. 31 ("The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act").

168 - Wall Advisory Opinion (2004), p. 198, para. 152.

147. The obligation has been applied in circumstances in which the act is unlawful in terms of the international law on the use of force—one of the headings of Israel's illegality. In the Military and Paramilitary Activities in and against Nicaragua case, the present Court held that the unlawful use of force attracted reparation "for all injury caused" to Nicaragua by the USA. [169] Reparation for injuries caused by the wrongful act can take a variety of forms, including restitution, compensation, and/or satisfaction. As the Commentary to the ILC ARSIWA indicates:

[F]ull reparation may only be achieved in particular cases by the combination of different forms of reparation. For example, re-establishment of the situation which existed before the breach may not be sufficient for full reparation because the wrongful act has caused additional material damage (e.g. injury flowing from the loss of the use of property wrongfully seized). Wiping out all the consequences of the wrongful act may thus require some or all forms of reparation to be provided, depending on the type and extent of the injury that has been caused. [170]

19.d.ii. Restitution

148. Restitution is the prime means of reparation. [171] It is related to but distinct from cessation in that it is aimed at the re-establishment of the situation that existed before the breach— reverting to the status quo ante. In the Chorzów Factory case, the Permanent Court underscored the primacy of restitution over other forms of reparation. [172] According to Article 35 of the ILC ARSIWA:

A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:
(a) is not materially impossible;
(b) does not involve a burden out of all proportion to the benefit deriving from

169 - Military and Paramilitary Activities in and against Nicaragua Merits Judgment (1986), p. 149.

170 - ARSIWA, Part Two, Ch. II Art. 34 Commentary, para. 2.

171 - Factory at Chorzów Judgment (1928), p. 47; ARSIWA, Part Two, Ch. II, Art. 35 Commentary, para. 3.

172 - Factory at Chorzów Judgment (1928), p. 47.

restitution instead of compensation. [173]

149. Examples of restitutionary acts would be:

(1) Restoring full control over the occupied territory to the sovereign—the State of Palestine and the Palestinian people. In the words of the General Assembly in the context of the OPT, "the acquisition of territories by force is inadmissible and that, consequently, territories thus occupied must be restored". [174]

(2) The annulment or rescission of legislative acts, decrees, or administrative acts or orders in connection with the occupation, subject to the application of a human rights-based consideration akin to the 'Namibia exception' concerning invalidity and non-recognition. In the Wall Advisory Opinion, the present Court specified that

[a]ll legislative and regulatory acts adopted with a view to [the] construction [of the wall], and to the establishment of its associated regime, must forthwith be repealed or rendered ineffective, except in so far as such acts, by providing for compensation or other forms of reparation for the Palestinian population, may continue to be relevant for compliance by Israel with [its] obligations. [175]

(3) Permitting, enabling and assisting with the safe and immediate return of all displaced Palestinian people and Palestinian refugees to their homes and land and providing compensation; [176]

173 - ARSIWA, Art. 35.

174 - UN General Assembly Resolution 2628 (XXV), 4 November 1970, para. 1.

175 - Wall Advisory Opinion (2004), p. 197, para. 151; GA Res. 18 ,107/60 January 2006, para. 8; SC Res. 1 ,465 March 1980, para. 6 ("The Security Council … Strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government and people of Israel to rescind those measures").

176 - Human Rights Council, Res. 11 ,29/49 April 2022, para. 4 ("The Human Rights Council [demands that Israel] … repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, and to make reparation for the damage caused to all natural or legal persons affected by the construction of the wall"); GA Res. 18 ,107/60 January 2006, para. 8 ("The General Assembly [demands that Israel] … … repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, and to make reparation for the damage caused to all natural or legal persons affected by the construction of the wall").

(4) Releasing all Palestinian prisoners and detainees and non-Palestinian nationals imprisoned for Palestine-related reasons;
(5) Returning seized land and property; [177]

177 - Temple of Preah Vihear (Cambodia v. Thailand), Judgment, I.C.J. Reports 1962, p. 6 at p. 37.

(6) Dismantling the Wall and removing its settlers and occupation forces. [178]

150. The ARSIWA Commentary recognizes that

Restitution, as the primary form of reparation, holds particular significance when the obligation breached is of a continuing nature, especially when it stems

178 - See Human Rights Council, Res. 11 ,29/49 April 2022, para. 4 (The Human Rights Council "Also demands that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice, including to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated"); GA Res. 30 ,247/77 December 2022, para. 6 ("The General Assembly … Demands that Israel, the occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory, including in and around East Jerusalem…"); GA Res. 88/74, 13 December 2019, para. 3. ("The General Assembly … Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan..."), para. 4 ("Stresses that a complete cessation of all Israeli settlement activities is essential"), para. 7 ("Condemns in this regard settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan"), and para. 13 ("Calls for measures of accountability, consistent with international law, in the light of continued non-compliance with the demands for a complete and immediate cessation of all settlement activities..."); GA Res. 18 ,107/60 January 2006, para. 8 ("The General Assembly … Demands also that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and …that it immediately cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein…"); GA Res. ES20 ,15/10- July 2004, paras. 2-1 (The General Assembly … Acknowledges the advisory opinion of the International Court of Justice of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem" and "Demands that Israel, the occupying Power, comply with its legal obligations as mentioned in the advisory opinion"). GA Res. ES21 ,13/10- October 2003, para. 1 ("The General Assembly … Demands that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem…"); GA Res. 83/45A, 13 December 1990, para. 8 ("The General Assembly … Condemns Israel's aggression, policies and practices against the Palestinian people in the occupied Palestinian territory and outside this territory, including expropriation, establishment of settlements…"); GA Res. 226/36A, 17 December 1981, para. 7 ("The General Assembly … Condemns Israel's aggression and practices against the Palestinian people in the occupied Palestinian territories and outside these territories, particularly … the establishment of settlements"); SC Res. 23 ,2334 December 2016, para. 2 ("The Security Council … Reiterates its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem…"), para. 4 ("Stresses that the cessation of all Israeli settlement activities is essential for salvaging the two-State solution, and calls for affirmative steps to be taken immediately to reverse the negative trends on the ground that are imperilling the two-State solution"); SC Res. 30 ,476 June 1980, para. 5 (The Security Council … Urgently calls on Israel, the occupying Power, to abide by the present and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy City of Jerusalem"); SC Res. 1 ,465 March 1980, para. 6 ("The Security Council … calls upon the Government and people of Israel to … dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem); SC Res. 22 ,446 March 1979, para. 4 ("The Security Council … Calls once more upon Israel to … desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories").

from a peremptory norm of general international law. In the case of unlawful annexation of a State, for example, while the withdrawal of occupying forces and the annulment of annexation decrees may be classified as cessation rather than restitution, ancillary measures, such as the return of individuals or property seized during the invasion, are necessary. These measures are essential as part of either the cessation or restitution process.[179]

This logic would apply equally to an existentially unlawful occupation generically, including where this illegality is in part, as here, due to purported annexation, and would therefore apply to the entirety of the OPT, and to matters arising out of the entire course of the occupation, not just, as in the example, in the initial phase (if this is what the word 'invasion' is referring to).

19.d.iii. Compensation

151. As the present Court affirmed in the Gabčikovo-Nagymaros case, "[i]t is a well-established rule of international law that an injured State is entitled to obtain compensation from the State which has committed an internationally wrongful act for the damage caused by it". [180] This entitlement applies equally to the Palestinian people, both individually and collectively, and in the form of the State of Palestine, for the damage caused to them by Israel's violations of their rights. The relationship between the compensation and restitution requirements is indicated in ILC ARSIWA Article 36: "[t]he State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution". [181]

152. The injury which reparation is due "includes any damage, whether material or moral, caused by the internationally wrongful act". [182] As the ILC explained: Material damage here refers to damage to property or other interests of the State

179 - ARSIWA, Part Two, Ch. II, Art. 35 Commentary, para. 6.

180 - See Gabčikovo-Nagymaros Project (Hungary/Slovakia), Judgment, I.C.J. Reports 1997, p. 7 at p. 81, para. 152.

181 - ARSIWA, Art. 1)36).

182 ARSIWA, Article 2)31).

and its nationals which is assessable in financial terms. 'Moral' damage includes such things as individual pain and suffering, loss of loved ones or personal affront associated with an intrusion on one's home or private life. [183]

This can thus capture compensation for the following (a non-exhaustive list) caused by the existence and conduct of the occupation throughout the entire period of its existence: death, personal injury, mental pain and anguish; the taking of movable or immovable property (including the deprivation of the effective use, control and benefits of property); the loss or injury to intangible property, loss of business profits, and loss or damage to livelihoods.

153. Compensation means, in the words of the Permanent Court in the Chorzów Factory case, the "payment of a sum corresponding to the value which a restitution in kind would bear" [184] and, according to ILC ARSIWA Article 36, "shall cover any financially assessable damage including loss of profits insofar as it is established". [185]

154. In the 2004 Wall Advisory Opinion, the present Court outlined Israel's obligations in relation to that particular context in the following terms:

[Israel must] return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or
legal persons having suffered any form of material damage as a result of the wall's construction. [186]

183 - ARSIWA, Part Two, Ch. II, Art. 2)31) Commentary, para. 5.

184 - Factory at Chorzów Judgment (1928), p. 47.

185 - ARSIWA, Art. 2)36).

186 - Wall Advisory Opinion (2004), p. 198, para. 153.

19.d.iv. Satisfaction

155. As indicated in ILC ARSIWA Article. 37, "[t]he State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation". [187] The Article goes on to indicate that satisfaction may "consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality". [188]

20. Consequences for third States

20.a. Non-recognition

20.a.i. Illegality—invalidity—non-recognition

156. Earlier it was indicated that the general consequence of the existence and conduct of the occupation being illegal is that everything done by Israel in relation to this activity is legally invalid. The chief significance of this for third States is that they should not recognize as valid that which is legally invalid. To do otherwise would be to implicitly endorse illegality or to mistakenly treat as lawful something which is illegal. This would run contrary to the legal maxim that is, as indicated above, the basis for the invalidity itself—ex injuria jus non oritur—legal rights cannot arise out of an illegal act. As Judge Higgins indicated in her Separate Opinion to the present Court's Wall Advisory Opinion, the proposition "[t]hat an illegal situation is not to be recognized…by third parties is self-evident". [189] This is, then, a general principle of law in the sense that it is inherent in the concept of law and the rule of law itself. [190]

187 - ARSIWA, Art. 37.

188 - Ibid.

189 - Wall Advisory Opinion (2004), Separate Opinion of Judge Higgins, p. 216, para. 38.

190 - Cf. Statute of the International Court of Justice, 24 October 33 ,1945 U.N.T.S. ("I.C.J. Statute"), Art. 38.1.c.

157. An obligation of non-recognition also exists in international law in relation to breaches of particular fundamental rules. This has the effect of reinforcing, and concretizing as a specific obligation, the operation of this more general principle in the particular context of the breaches covered. It is addressed separately below.

20.a.ii. The 'Namibia exception' revisited

158. To repeat what was said earlier in the context of the invalidity that is the basis for non-recognition: human rights law requires that certain acts should be recognized if this is necessary to secure the rights of individuals in human rights law. To repeat from above the extract from the Namibia case of the present Court:

… The non-recognition of South Africa's administration of the Territory should not lead to depriving the people of Namibia of any benefits resulting from international cooperation. While official acts performed by the South African Government on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid, this invalidity cannot be applied to acts such as the registration of births, deaths, and marriages, as disregarding these acts would only harm the inhabitants of the Territory. [191]

159. To reiterate what was also said earlier in the context of invalidity: this rights-based exception to recognition does not somehow require Israeli settlers to be recognized as validly present in and owners of land and property in the oPt, since this presence, and 'ownership', is legally invalid, including, as indicated above, as a matter of human rights law.

20.a.iii. Aspects of the obligation

20.a.iii.α. Obligation not to recognize the validity of Israel's presence in the OPT in and of itself

191 - Namibia Advisory Opinion, p. 56, para. 125.

160. States must not recognize the validity of Israel's presence in or control over the OPT, nor its claims to sovereignty. This includes rejecting any justification Israel offers for its presence or control. Specifically, acknowledging Israel's claim to maintain the occupation for security purposes would imply recognition of its actions under international law on the use of force, which is incorrect, as Israel's actions do not meet legal criteria. Such recognition would equate to endorsing aggression and a violation of self-determination, thereby undermining core principles of international law in this context.

161. The general obligation not to recognize the validity of Israel's presence in the OPT is reflected in the present Court's holding, in the Namibia Advisory Opinion, that there was an obligation on the part of all States "to recognize the illegality and invalidity of South Africa's continued presence" in Namibia. [192] The Security Council stated that

States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia. [193]

In paragraphs 2 and 5 of Resolution 276, 1970 the Security Council called upon all States

[p]articularly those which have economic and other interests in Namibia to refrain from any dealings with the Government of South Africa which are inconsistent with… [194]

…the Council's determination that

…the continued presence of the South African authorities in Namibia is illegal and that consequently all acts taken by the Government of South Africa on behalf of or concerning Namibia…are illegal and invalid. [195]

192 - Namibia Advisory Opinion (1971), p. 54, para. 119.

193 - SC Res. 20 ,301 November 1971, para. 2)6).

194 - SC Res. 30 ,276 January 1970, para. 5.

195 - SC Res. 30 ,276 January 1970, para. 2.

162. The present Court held that

Member States, in accordance with the duty of non-recognition under resolution 276 (1970), must refrain from sending diplomatic or special missions to South Africa that include Namibia, from sending consular agents to Namibia, and from allowing any such agents to remain. They must also inform South African authorities that maintaining diplomatic or consular relations with South Africa does not imply recognition of its authority over Namibia. [196]

163. The Security Council subsequently called upon all States

to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration [197]

And it called upon States maintaining diplomatic or consular relations with South Africa to take the following concrete steps:

issue a formal declaration to the Government of South Africa to the effect that they do not recognize any authority of South Africa with regard to Namibia and that they consider South Africa's continued presence in Namibia illegal…[and] terminate existing diplomatic and consular representation as far as they extend to Namibia, and to withdraw any diplomatic or consular mission or representative residing in the Territory.

20.a.iii.β. Obligation not to recognize Israel's purported annexation of any part of the OPT, including East Jerusalem and, relatedly, not to treat the OPT as if it were the sovereign territory of Israel

164. In the Friendly Relations and Cooperation Declaration, the General

196 - See Namibia Advisory Opinion (1971), p. 55, para. 123.

197 - SC Res. 20 ,301 October 1971, para. 6.

Assembly affirmed that "no territorial acquisition resulting from the threat or use of force shall be recognized as legal". [198]

165. States are obliged not to recognize Israel's purported acquisition of territory (purported annexation) over any part of the OPT, including East Jerusalem. Relatedly, States must not treat any part of the OPT, including East Jerusalem, as if it were the sovereign territory of Israel, whether or not this treatment is based on or linked to any claim made by Israel in this regard. In Resolution 2334 of 2016, the Security Council reaffirmed the obligations of non-recognition and distinction.

166. On Israel's illegal purported annexation of East Jerusalem in particular, Security Council in Resolution 478 (1980) responded to the adoption of the basic law in the following terms:

Decides not to recognize the "basic law" and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem and calls upon:

(a) All Member States to accept this decision;

(b) Those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City. [199]

20.a.iii.γ. Obligation of non-recognition: economic matters in particular

167. The duty of non-recognition includes a requirement not to enter into economic dealings with Israel concerning the occupied territories since they would presuppose, at a minimum, that Israel has legitimate authority with respect to them (whether on a sovereign or a non-sovereign basis). This position was adopted in relation to South Africa with respect to Namibia, where the present Court held:

198 - Friendly Relations and Co-operation Declaration (1970).

199 - SC Res. 20 ,478 August 1980, para. 5.

The restraints which are implicit in the non-recognition of South Africa's presence in Namibia and the explicit provisions of paragraph 5 of resolution 276 (1970) impose upon Member States the obligation to abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory. [200]

168. The duty of non-recognition requires States to ensure that that no State companies are involved in corporate activity operating in or more broadly linked to the OPT, insofar as this activity concerns Israel or Israeli companies, including those owned by or linked to settlers and/or operating in settlements, bearing in mind that such companies operate on an illegal basis in the OPT. In the context of South Africa and Namibia, the Security Council called on States to ensure that companies and enterprises under the direct ownership or control of the State cease all dealings with or in Namibia, and cease investment activity therein. [201]

169. All States must also regulate other companies registered in their jurisdictions to ensure that they are not involved in the corporate activity outlined in the previous paragraph. Otherwise, such States would be failing in their duty not to recognize as lawful the occupation itself, and the presence of and activities of Israeli settlers, including those who run and own companies operating there, notably in settlements. The duty of non-recognition is engaged here because it is impossible for foreign companies to comply with local law and/or the rule of law when engaged in the corporate activity outlined in the previous paragraph, since such law is either non-existent or, because it operates on a basis that involves a violation of international law, invalid.

20.b. No aid or assistance

20.b.i. General principle

200 - See Namibia Advisory Opinion (1971), p. 55, para. 124.

201 - SC Res. 29 ,283 July 1970, paras. 7-4.

170. A further general principle of law arising out of the concept of illegality is that States must not provide aid or assistance to Israel's illegal behaviour. This was again indicated by Judge Higgins in her Separate Opinion to the present Court's Wall Advisory Opinion, in her observation, made in conjunction with the earlier observation concerning non-recognition, "[t]hat an illegal situation is not to be…assisted by third parties is self-evident". [202] As with non-recognition, this is a general principle of law in the sense that it is inherent in the concept of law and the rule of law itself. [203]

171. As with the obligation of non-recognition, an obligation not to aid or assist illegality also exists in international law in relation to breaches of particular fundamental rules. This has the effect of reinforcing, and concretizing as a specific obligation, the operation of this more general principle in the particular context of the breaches covered. It is addressed separately below.

20.b.ii. As invoked in other contexts

172. In the context of South Africa's illegal presence in Namibia, the present Court found that member States of the United Nations are "under obligation to refrain from lending any support or any form of assistance to South Africa with reference to its occupation of Namibia". [204]

173. In the context of territories under Portuguese colonial control in 1965, the Security Council resolved to:

[Request] all States to refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the people of the Territories under its administration; and to take all the necessary measures to prevent the sale and supply of arms and military equipment to the Portuguese Government for this purpose, including the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition to be

202 - Wall Advisory Opinion (2004), Separate Opinion of Judge Higgins, p. 216, para. 38.

203 - Cf. I.C.J. Statute, Art. 38.1.c.

204 - Namibia Advisory Opinion (1971), p. 54, para. 119. See also p. 56, para. 126.

used in the Territories under Portuguese administration. [205]

20.b.iii. As invoked in the present context

174. In General Assembly Resolution 3414, 5 December 1975, it Request[ed] all States to desist from supplying Israel with any military or economic aid as long as it continues to occupy Arab territories and deny the inalienable national rights of the Palestinian people. [206]

In Resolution 36/27 of 13 November 1981, the General Assembly "[r]eiterates its call to all States to cease forthwith any provision to Israel of arms and related material of all types which enable it to commit acts of aggression against other States". [207] In Resolution 36/226A, 17 December 1981, the Assembly called on all States "to put an end to the flow to Israel of any military, economic, and financial resources that would encourage it to pursue its aggressive policies against the Arab countries and the Palestinian people". [208] The Assembly also

Considers that the agreements on strategic co-operation between the United States of America and Israel signed on 30 November 1981 would encourage Israel to pursue its aggressive and expansionist policies and practices in the Palestinian and other Arab territories occupied since 1967, including Jerusalem, would have adverse effects on efforts for the establishment of a comprehensive, just and lasting peace in the Middle East and would threaten the security of the region. [209]

In Resolution 38/180A of 1983, the General Assembly deplored "any political, economic, financial, military and technological support to Israel that encourages Israel to commit acts of aggression and to consolidate and perpetuate its occupation

205 - SC Res. 23 ,218 November 1965, para. 6.

206 - GA Res. 5 ,3414 December 1975, para. 3.

207 - GA Res. 13 ,27/36 November 1981, para. 3.

208 - GA Res. 226/36A, 17 December 1981, para. 13.

209 - Ibid., para. 12.

and annexation of occupied Arab territories", [210] and called "once more" upon all Member States:

(a) To refrain from supplying Israel with any weapons and related equipment and to suspend any military assistance that Israel receives from them;

(b) To refrain from acquiring any weapons or military equipment from Israel;

(c) To suspend economic, financial and technological assistance to and co-operation with Israel;

(d) To sever diplomatic trade and cultural relations with Israel. [211]

The General Assembly further declared, in Part E of the Resolution, "the international responsibility of any party or parties that supply Israel with arms or economic aid that augments its war potential" [212] and condemned "all steps which may result in augmenting the capability of Israel and contributing to its policy of aggression against countries in the region". [213] In particular, it demanded that all States, and particularly the United States of America, "refrain from taking any step that would support Israel's war capabilities and consequently its aggressive acts", [214] and called upon States to "review… any agreement, whether military, economic or otherwise, concluded with Israel". [215]

175. On settlements in particular, in Resolutions 465 (1980) and 471 (1980) the Security Council called on all States "not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories". [216] The General Assembly has reiterated this call on an annual basis.

210 - GA Res. 180/38A, 19 December 1983, para. 9.

211 - Ibid., para. 13.

212 - GA Res. 180/38E, 19 December 1983, para. 1.

213 - Ibid., para. 2.

214 - Ibid., para. 3.

215 - Ibid., para. 4.

216 SC Res. 1 ,465 March 1980, para. 7; SC 5 ,471 June 1980, para. 5.

20.c. General duty to ensure the realization of Israel's compliance with the law of self-determination and the core/basic protective rules of IHL

20.c.i. Introduction

176. Two of the fundamental areas of international law violated by Israel in the existence and conduct of the occupation have a special obligation attached to them, reflective of the underlying idea of a generalized interest that is the basis for the obligations having erga omnes status: all States bear a general obligation to ensure they are not violated by Israel. These areas of international law are, first, the right of self-determination, and, second, the core/basic protective obligations of IHL.

20.c.ii. Self-determination

177. According to the Friendly Relations and Co-operation Declaration,

> Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples… and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle . . . [217]
> […]
> Every State bas the duty to refrain from any forcible action which deprives peoples of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support [emphasis added]. [218]

20.c.iii. The core/basic protective rules of IHL

178. Article 1 common to the four Geneva Conventions reads as follows: "[t]

217 Friendly Relations and Co-operation Declaration (1970).

218 - Ibid.

he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances" (emphasis added). [219] Common Article 1 was confirmed as customary international law in the Nicaragua decision of the present Court. [220] The present Court held in the Wall Advisory Opinion that "[i]t follows from that provision [common Article 1]

that every State party to that Convention, whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the instruments in question are complied with" (emphasis added). [221]

20.c.iv. Practical significance

179. This general duty takes on a practical significance in the form of three specific duties borne by States to suppress Israel's violations of the two areas of international law covered by it.

20.d. Three specific duties to suppress Israel's violations of international law

20.d.i. Introduction

180. States bear a tripartite set of specific suppression obligations (one positive, two, related (based on the overall concept of abstention), negative) relating to Israel's breaches of international law. These are:

(1) To co-operate to bring them to an end.
(2) Not to recognize the situation that gives rise to them.
(3) Not to aid or assist in them.

219 - GC I, Art. 1; GC II, Art. 1; GC III, Art. 1; GC IV, Art. 1.

220 - Military and Paramilitary Activities in and Against Nicaragua Merits Judgment (1986), pp. 115-114, para. 220.

221 - Wall Advisory Opinion (2004), p. 136, para. 157.

As indicated above, States are already required to follow (2) and (3) as a matter of legal principle concerning illegality as a general matter. Here, they are subject to the same requirement as a matter of a specific set of legal obligations tied to breaches of certain fundamental rules.

20.d.ii. Two different bases for these rules

181. These obligations arise on two separate bases in relation to two different types of violations of the relevant rules.

20.d.ii.α. Basis 1: For all violations, of rules that a) operate erga omnes, and b) in relation to which States bear the foregoing obligation to ensure implementation

182. In the case of violations of the right of self-determination, and core/basic protective norms of IHL, in particular, the present Court indicated in the Wall Advisory Opinion that States bear the foregoing obligations in relation to these violations, given that the rules violated have the following two characteristics: (1), they operate erga omnes, and (2), as indicated above, linked to this status, primary obligations to promote the realization of these obligations by all States exist in international law (in the case of self-determination, in the Friendly Relations and Co-operation Resolution of the General Assembly; in the case of the core/basic protective rules of IHL, in common Article 1 to the four Geneva Conventions). [222]

183. Thus, in line with the Court's approach in the Wall Advisory Opinion, Israel's violations in these two areas of international law trigger the tripartite suppression obligations for third States. This elaborates, through three specific duties, the general responsibility of States to ensure Israel's adherence to these areas of international law as previously outlined.

222 - The Court emphasises these two elements of each of the two areas of international law (Wall Advisory Opinion (2004), p. 199, para. 156 for self-determination; pp. 200-199, paras. 158-157 for IHL), follows this with "Given the character and…importance of the rights and obligations involved", and affirms the three obligations in relation to these two areas of international law (Ibid., p. 200, para. 159).

20.d.ii.β. Basis 2:
For 'serious' violations, of rules that have jus cogens status

184. As indicated above, one of the two consequences of certain obligations in international law having jus cogens status is that, as a matter of the law of State responsibility as articulated in the ILC's ARSIWA and its draft conclusions on jus cogens obligations, 'serious breaches' of such obligations, in the words of the Commentary on the ARSIWA, "attract additional consequences, not only for the responsible State but [also] for all other States". [223] These additional consequences are the three suppression-related obligations being addressed presently, which all States bear in the case of a serious breach of a peremptory norm of general international law by any State. This is reflected in the following stipulation by the UN Human Rights Council in resolution 49/28 of 11 April 2022:

Calls upon all States to ensure their obligations of non-recognition, non-aid or assistance with regard to the serious breaches of peremptory norms of international law by Israel… and also calls upon them to cooperate further to bring, through lawful means, an end to these serious breaches and a reversal of Israel's illegal policies and practices. [224]

As indicated above, the existence and conduct of the occupation involves serious breaches of peremptory norms of general international law by Israel. In consequence, the suppression obligations borne by other States on the present basis are engaged.

20.d.ii.γ. Consolidating the treatment of these bases, and the violations by Israel covered by the three duties

185. The first basis for States bearing suppression obligations is limited to Israel's violations of the law of self-determination and the core/basic protective rules

223 - ARSIWA, Part Two, Ch. III Commentary, para. 7. On this area of State responsibility, see ARSIWA, Arts. 41-40; ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19. See also ARSIWA, Part Two, Ch. III Commentary.

224 - Human Rights Council Res. 11 ,28/49 April 2022, preamble, para. 7.

of IHL. The second basis arises out of Israel's violations of a wider set of rules, including these two areas of law, based on the rules having jus cogens status. This second basis, however, only covers 'serious' violations, whereas the first basis covers all violations. That said, given that
Israel's violations of international law are, in all the categories of rules, 'serious' (as indicated above) they all fall into the category that would trigger States' tripartite suppression obligations on the second basis. For present purposes, then, there is no need to address the suppression obligations differently in terms of the two different bases on which they operate, since in this instance the difference has no material significance. Given this, the following coverage of the three obligations is based on a consolidation of the treatment of each as a matter of the particular bases for them.

186. What follows pertains to Israel's violations of international law, particularly those rules with jus cogens status. These violations are deemed "serious" and, with regard to the right of self-determination and core IHL protections, the rules operate erga omnes. Consequently, States are bound by a general obligation to ensure that Israel realizes these rights and obligations.

(1) The right of self-determination.
(2) The prohibition of aggression, including the prohibition of the acquisition of territory by threat or use of force.
(3) The prohibition of apartheid.
(4) The core/basic protective rules of IHL.
(5) The prohibition of racial discrimination generally (beyond apartheid in particular).
(6) The prohibition of torture and cruel, inhuman and degrading treatment and punishment.

20.d.iii. Duty (1):
Obligation to cooperate to bring to an end, through lawful means, the violations

187. In the Wall Advisory Opinion, the present Court stated that:

It is…for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention. [225]

188. For the sub-set of these violations and violations of other jus cogens norms that are 'serious', as a matter of the law of State responsibility States bear the duty to cooperate with one another—"a joint and coordinated effort by all States"—to bring the breaches to an end. [226]

189. No particular form of cooperation is prescribed by international law, given the multiplicity of possibilities that exist. Such possibilities include both institutionalized cooperation (for instance, through the United Nations) and non-institutionalized cooperation. [227]

190. On the United Nations, in the Chagos Advisory Opinion the present Court held, in the context of self-determination and its status as an erga omnes right, that "while it is for the General Assembly to pronounce on the modalities required to ensure the completion of the decolonization of Mauritius, all Member States must co-operate with the United Nations to put those modalities into effect" and also "that all Member States must co-operate with the United Nations to complete the decolonization of Mauritius". [228]

225 - Wall Advisory Opinion (2004), p. 200, para. 159.

226 - ARSIWA, Art. 1)41); Quotation from ARSIWA, Part Two, Ch. III, Art. 41 Commentary, para. 3. See also ILC jus cogens
Draft Conclusions & Commentaries, Conclusion 19, para. 1; On this duty existing in customary international law, see ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19, Commentary, para. 2.

227 - ARSIWA, Part Two, Ch. III, Art. 41 Commentary, para. 2. and ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19 Commentary, para. 10.

228 - Chagos Advisory Opinion (2019), p. 139, paras. 182 ,180.

191. One aspect of international cooperation would be to seek to give effect to those resolutions of the General Assembly and Security Council which have on numerous occasions called for Israel's violations of international law to end, as outlined above. Some of these resolutions have expressly called upon third States to support the Palestinian people, [229] and to withhold military and economic aid to Israel. [230] Regardless of whether or not there are express stipulations addressed to member States of this kind, States can use the determinations as a part guide when determining what they must focus on in discharging their present obligation to bring Israel's breaches to an end.

192. States may also deploy a regime of sanctions aimed at curbing economic activity with Israel generally. These sanctions can also be deployed against key government officials involved in supporting and or promoting illegal activity. This may extend to freezing bank accounts and assets abroad, and restrictions on travel.

20.d.iv. Duty (2):

Obligation of non-recognition

193. In the Wall Advisory Opinion, the present Court, in the context of the law of self-determination and IHL, stated that

…all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around Jerusalem. [231]

229 - GA Res. 5 ,3236 November 1974, para. 6 ("The General Assembly … Appeals to all States and international organizations to extend their support to the Palestinian people in in its struggle to restore its rights, in accordance with the Charter").

230 - GA Res. 5 ,3414 December 1975, para. 3 (The General Assembly … Requests all States to desist from supplying Israel with any military or economic aid as long as it continues to occupy Arab territories and deny the inalienable national rights of the Palestinian people"; GA Res. 226/36A, 17 December 1981, para. 13 (The General Assembly … Calls upon all States to put an end to the flow to Israel of any military, economic and financial resources that would encourage it to pursue it aggressive policies against the Arab countries and the Palestinian people").

231 - Wall Advisory Opinion (2004), p. 200, para. 159.

194. For the sub-set of these violations and violations of other jus cogens norms that are 'serious', as a matter of the law of State responsibility States are obliged not to "recognize as lawful" the "situation created by" the breaches. [232] This is reflected in the dictum of the
International Criminal Court in The Prosecutor v. Bosco Ntaganda that "as a general principle of law, there is a duty not to recognize situations created by certain serious breaches of international law". [233] According to the commentary to the ARSIWA,

The obligation applies to "situations" created by these breaches, such as, for example, attempted acquisition of sovereignty over territory through the denial of the right of self-determination of peoples. It not only refers to the formal recognition of these situations, but also prohibits acts which would imply such recognition. [234]

195. However, as Judge Higgins observed in relation to the aforementioned dictum from the Wall Advisory Opinion, "[t]hat an illegal situation is not to be recognized…is self-evident". [235] Coverage of specific duty of non-recognition as indicated in the present section has therefore been folded into the general position of non-recognition addressed above.

20.d.v. Duty (3):
Obligation not to render aid or assistance
in maintaining the illegal situation

196. In the Wall Advisory Opinion, the present Court, in the context of the law

232 - ARSIWA, Art. 2)41). See also ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19, para. 2. See also ARSIWA, Part Two, Ch. III, Art. 41 Commentary, passim. On the status of this obligation in customary international law, see ARSIWA, Part Two, Ch. III, Art. 41 Commentary, paras 6 and 12 and sources cited therein and ILC jus cogens Draft Conclusions & Commentaries, Conclusion 13, para. 13 and sources cited therein.

233 - The Prosecutor v. Bosco Ntaganda, Case No. ICC1707-06/02-04/01-, Second decision on the Defence's chal lenge to the jurisdiction of the Court in respect of Counts 6 and 9, of January 2017, Trial Chamber VI, International Criminal Court, para. 53.

234 - ARSIWA, Part Two, Ch. III, Art. 41 Commentary, para. 5.

235 - Wall Advisory Opinion (2004), Separate Opinion of Judge Higgins, p. 216, para. 38.

of self-determination and IHL, stated that

all States…are under an obligation not to render aid or assistance in maintaining the [illegal] situation created by [the construction of the Wall].[236]

For the sub-set of these violations and violations of other jus cogens norms that are 'serious', as a matter of the law of State responsibility, States are obliged to refrain from rendering aid or assistance to Israel in maintaining the situation that constitutes these breaches. [237]

197. However, again as Judge Higgins observed in relation to the aforementioned dictum from the Wall Advisory Opinion, "[t]hat an illegal situation is not to be… assisted is self-evident". [238] As with the related duty of non-recognition, then, coverage of the present specific duty not to aid or assist Israel's violations of certain norms has been folded into the general position concerning the requirement not to aid or assist Israel in relation to its illegality as a general matter above.

20.e. Entitlement to invoke a breach of obligations erga omnes partes and erga omnes

20.e.i. Introduction

198. All States have the legal right to invoke the responsibility of Israel for breaching obligations that are a) binding on a particular group of States including Israel (if they are in this group), established for the protection of a collective interest (an erga omnes partes obligation), [239] and/or b) exist generally (i.e. are applicable to all States) and are owed to the international community as a whole,

236 - Wall Advisory Opinion (2004), p. 200, para. 159

237 - ARSIWA, Art. 2)41). See also ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19, para. 2; ARSIWA, Part Two, Ch. III, Art. 41 Commentary. On the status of this obligation in customary international law, see ARSIWA, Part Two, Ch. III, Art. 41 Commentary, para. 12, and ILC jus cogens Draft Conclusions & Commentaries, Conclusion 13, para. 13 and sources cited therein.

238 - Wall Advisory Opinion (2004), Separate Opinion of Judge Higgins, p. 216, para. 38.

239 - ARSIWA, Part Three, Ch. I, Art. 48 Commentary, para. 6.

i.e. obligations with erga omnes status. [240]

20.e.ii. Two bases

20.e.ii.α. (1) Erga omnes partes

199. Obligations erga omnes partes apply to a particular group of States and exist for the purpose of protecting a collective interest. [241] Usually, such obligations exist in a treaty, although they can also exist in customary international law. [242] Such obligations "are owed by any State party to all the other States" [243] such that when any given State breaches them, all other States within the group can invoke the breach even if they were not directly injured or they do not have some other special interest in it (e.g. it concerned harm to their nationals). [244]

200. Whether a treaty contains erga omnes partes obligations depends on its text. Interpreting the Treaty of Versailles in S.S. Wimbledon, the Permanent Court identified a common legal interest in "the intention of the authors … to facilitate access to the Baltic by establishing an international regime, and consequently to keep the canal open at all times to foreign vessels of every kind". [245] In Belgium v. Senegal, the present Court identified the erga omnes partes nature of obligations under the Convention Against Torture in the treaty's preambular call "to make more effective the struggle against torture…throughout the world". [246] Consequently, "the obligations in question are owed by any State party to all the other States

240 - ARSIWA, Art. 48(b); ARSIWA, Part Three, Ch. I, Art. 48 Commentary, para. 8.

241 - ARSIWA, Art. 48.

242 - ARSIWA, Part Three, Ch. I, Art. 48 Commentary, para. 6.

243 - Belgium v. Senegal Judgment (2012), p. 439, para. 68.

244 - Belgium v. Senegal Judgment (2012), p. 450, para. 69; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gambia v. Myanmar), Preliminary Objections, I.C.J. Reports 2022, p. 36, para. 109.

245 - Case of the S.S. "Wimbledon", Judgment of 17 August 1923, P.C.I.J., Series A, No. 1923 ,1, p. 23.

246 - Belgium v. Senegal Judgment (2012), para. 68.

Parties to the Convention" [247] and States have "a common interest to ensure, in view of their shared values, that acts of torture are prevented and that, if they occur, the authors do not enjoy impunity". [248] In Reservations to the Convention Against Genocide, the Court emphasised that States had a common interest in each other's compliance with the Genocide Convention, because its "object on the one hand is to safeguard the very existence of certain human groups and on the other to confirm and endorse the most elementary principles of morality". [249] In Gambia v. Myanmar, the Court affirmed the "right of all other Contracting Parties to assert the common interest in compliance with the obligations erga omnes partes under the Convention". [250]

201. Israel's breaches include of treaty obligations that operate erga omnes partes. The aforementioned approach taken by the present Court and its predecessor would indicate that all Israel's obligations in human rights treaties that have been breached have this character, as do certain core/basic protective IHL treaty norms.

20.e.ii.β. (2) Erga omnes obligations (and by association, jus cogens obligations)

202. All States can also invoke Israel's breach of erga omnes obligations as a matter of general international law. [251] Such obligations are owed to the international community as a whole and, therefore, as the present Court held in the Barcelona Traction case, "by their very nature … are the concern of all States" and "[a]ll States can be held to have a legal interest in their protection...". [252] The ILC Draft conclusions on jus cogens norms (the Commentary of which, as already indicated, observing that norms with jus cogens status also have erga omnes status) holds that "any State is entitled to invoke the responsibility of another State for a breach

247 - Ibid

248 - Ibid

249 - Reservations to the Genocide Convention Advisory Opinion (1951), p. 12.

250 - Gambia v. Myanmar Preliminary Objections (2022), para. 113.

251 - ARSIWA, Art. 48(b).

252 - Barcelona Traction Judgment (1970), p. 32, para. 33.

of a peremptory norm of general international law (jus cogens)". [253]

20.e.iii. What States can do

20.e.iii.α. Call upon Israel—cessation, assurance of non-repetition, reparation

203. States are legally entitled to call on Israel to perform the three breach-consequence-related obligations outlined above: cessation, assurances of non-repetition, and reparation.

20.e.iii.β. Take measures to induce cessation and reparation

204. States are also entitled to take lawful measures against Israel to induce the aforementioned cessation and reparation. [254] (They are of course also obliged to take such measures under the separate obligation reviewed earlier, which, as it covers breaches of jus cogens obligations, necessarily covers obligations that also have erga omnes status).

205. In addition, countermeasures—acts that are ordinarily wrongful, but where wrongfulness is precluded by the fact that they are taken in response to another State's wrongful act— against Israel on the same grounds may also be legal permissible. The 2001 ARSIWA Commentary noted that State practice on countermeasures by non-injured States "is limited and embryonic," mentioning the use of trade embargoes, asset freezes, travel bans, boycotts, and other unilateral and multilateral sanctions. [255] The conclusion then was that the current state of international law on countermeasures taken in the general or collective interest is uncertain.

253 - ILC jus cogens Draft Conclusions & Commentaries, Conclusion 17, para. 2.

254 - ARSIWA, Art. 54.

255 - ARSIWA, Part Three, Ch. II, Art. 54 Commentary paras. 3 and 4 (quotation from para 3).

State practice is sparse and involves a limited number of States. At present, there appears to be no clearly recognized entitlement of States referred to in article 48 [concerning erga omnes obligations] to take countermeasures in the collective interest. [256]

206. Notably, the Commentary did not hold that that such countermeasures would be unlawful—the position was left open. In the over-two-decade-period since the Commentary was completed, a right to take such measures may have crystallized.[257]

20.e.iii.γ. Bring a claim

207. States have potential standing to bring a claim before a court or tribunal against Israel for its breaches of obligations erga omnes partes and erga omnes. Examples of standing established on the basis of obligations in the former category are the Permanent Court in the aforementioned S.S. Wimbledon, allowing Italy and Japan to bring a claim against Germany for refusing to grant access to the Kiel Canal, despite not being individually injured; [258] and the present Court permitting Gambia to bring a claim against Myanmar under the Genocide Convention despite being uninjured by Myanmar's actions. [259]

208. The possibility of such a claim would depend inter alia on whether a court or tribunal would have jurisdiction to hear it. One potential option here is the Committee on the Elimination of Racial Discrimination under the International Convention on the Elimination of Racial Discrimination,

256 - ARSIWA, Part Three, Ch. II, Art. 54 Commentary paras 6.

257 - Martin Dawidowicz, 'Third-Party Countermeasures: A Progressive Development of International Law?', (29 (2016 QIL Zoom-In 3.

258 - S.S. "Wimbledon" Judgment (1923), pp. 23-20

259 - Gambia v. Myanmar Preliminary Objections (2022), p. 37, para. 113,

of which Israel is a party. [260] Article 11(1) of the ICERD reads,

If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. [261]

This mechanism does not require Israel's prior consent for the Committee to be seized, and no reservation has been made to Articles 11 and 13 by any Party to the Convention. [262] Indeed, in a decision in a 'communication' (as such complaints are termed) brought by the State of Palestine against Israel, the CERD has, in tandem with the jurisprudence and interpretations of the ECtHR, the IACtHR, and HRC, emphasised that human rights obligations are "non-synallagmatic". [263] They impose collective obligations, rather than a "web of inter-State exchanges of mutual obligations". [264] Consequently, "any State party may trigger the collective enforcement machinery created by the respective treaty, independently from the existence of correlative obligations between the concerned
parties". [265] Such an approach advances the "object and purpose" of human rights treaties, [266] rooted as they are "in superior common values shared by the international community as a whole". [267]

260 - See United Nations Treaty Collection, Status of Treaties, ICERD, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en.

261 - ICERD, Art. 1)11).

262 - See CERD, Inter-State communication submitted by the State of Palestine against Israel: decision on jurisdiction, U.N. Doc. CERD/C/2021 ,5/100, para. 56 and UN Treaty Collection, Status of Treaties, ICERD, Declarations and Reservations, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en.

263 - Ibid, para. 50.

264 - Ibid, para. 48.

265 - Ibid, para. 50.

266 - Ibid, para. 51 (cf. VCLT, Art. 31).

267 - Ibid, para. 51. CERD, Inter-State communication submitted by the State of Palestine against Israel: decision on jurisdiction, U.N. Doc. CERD/C/16 ,5/100 June 2021, para. 51.

209. Therefore, under the ICERD, any of the 182 State Parties to the ICERD may bring a communication (complaint) against Israel for its violations of the ICERD in the OPT. [268]

21. Consequences for the United Nations

21.a. General legal framework

210. The general principles of non-recognition, and non-aid and assistance, apply to the United Nations in the same way they apply to States. Therefore, the legal consequences of Israel's violations of international law for the United Nations are clear: it must neither recognize nor aid or assist in any form of this illegality.

211. The commentary to the ILC draft Conclusions on peremptory norms also indicates that the aforementioned tripartite suppression obligations arising in the circumstances of serious breaches of jus cogens norms apply "as appropriate, to international organizations". [269] In consequence, the foregoing requirements of non-recognition and non-aid/assistance apply again on this basis, supplemented by an obligation to take action to bring the illegal situation to an end, in the particular context of breaches of jus cogens norms by Israel. On the obligation of non-recognition, according to the commentary,

…if States are under an obligation not to recognize as lawful situations created by a serious breach of a peremptory norm or to assist in the maintenance of such situations, it stands to reason that international

268 - See UN Treaty Collection, Status of Treaties, ICERD, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV2-&chapter=4&clang=_en.

269 - ILC jus cogens Draft Conclusions & Commentaries, Conclusion 19 Commentary, para. 19 (footnote omitted)

organizations are under a similar obligation. [270]

On the obligation to take action, according to the commentary,

The obligation of States to act collectively to bring to an end serious breaches of peremptory norms of general international law (jus cogens) has particular consequences for cooperation within the organs of the United Nations and other international organizations. It means that, in the face of serious breaches of peremptory norms of general international law (jus cogens), international organizations should act, within their respective mandates and when permitted to do so under international law, to bring to an end such breaches. Thus, where an international organization has the discretion to act, the obligation to cooperate imposes a duty on the members of that international organization to act with a view to the organization exercising that discretion in a manner to bring to an end the breach of a peremptory norm of general international law (jus cogens). A duty of international organizations to exercise discretion in a manner that is intended to bring to an end serious breaches of peremptory norms of general international law (jus cogens) is a necessary corollary of the obligation to cooperate. [271]

21.b. Examples

21.b.i. Indications from the present Court on the role of the UN in taking action to bring illegality to an end

212. In the Wall Advisory Opinion, the present Court stated that it "is of the view that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required

270 - Ibid.

271 - Ibid.

to bring to an end the illegal situation…taking due account of the present Advisory Opinion". [272]

213. In the Chagos Advisory Opinion, the present Court noted that "[t]he modalities necessary for ensuring the completion of the decolonization of Mauritius fall within the remit of the United Nations General Assembly, in the exercise of its functions relating to decolonization" and that "it is for the General Assembly to pronounce on the modalities required to ensure the completion of the decolonization of Mauritius", and "all Member States must co-operate with the United Nations to put those modalities into effect". [273]

21.b.ii. Example from the General Assembly of non-recognition and non-assistance in the maintenance of unlawful situation

214. In the context of the UK's continued exercise of authority over the Chagos archipelago on a purported basis of enjoying sovereignty, in violation of the law of self-determination, the General Assembly affirmed an obligation of non-recognition of any act by the UK that presupposed the enjoyment of sovereignty over the Chagos Islands by that State, including dealing with the UK on the basis of the name it gave to the Islands implying such sovereignty, the 'British Indian Ocean Territory'. It called

…upon the United Nations and all its specialized agencies … to refrain from impeding that process [of decolonization] by recognizing, or giving effect to any measure taken by or on behalf of, the 'British Indian Ocean Territory [274]

272 - Wall Advisory Opinion (2004), p. 200, para. 160.

273 - Chagos Advisory Opinion (2019), p. 139, paras. 180-179.

274 - GA Res. 22 ,295/73 May 2019, para. 6

And called

….upon all other international, regional and intergovernmental organizations … to

refrain from impeding that process by recognizing, or giving effect to any measure taken by or on behalf of, the 'British Indian Ocean Territory'. [275]

Original Copy filed at the Registry of the Court

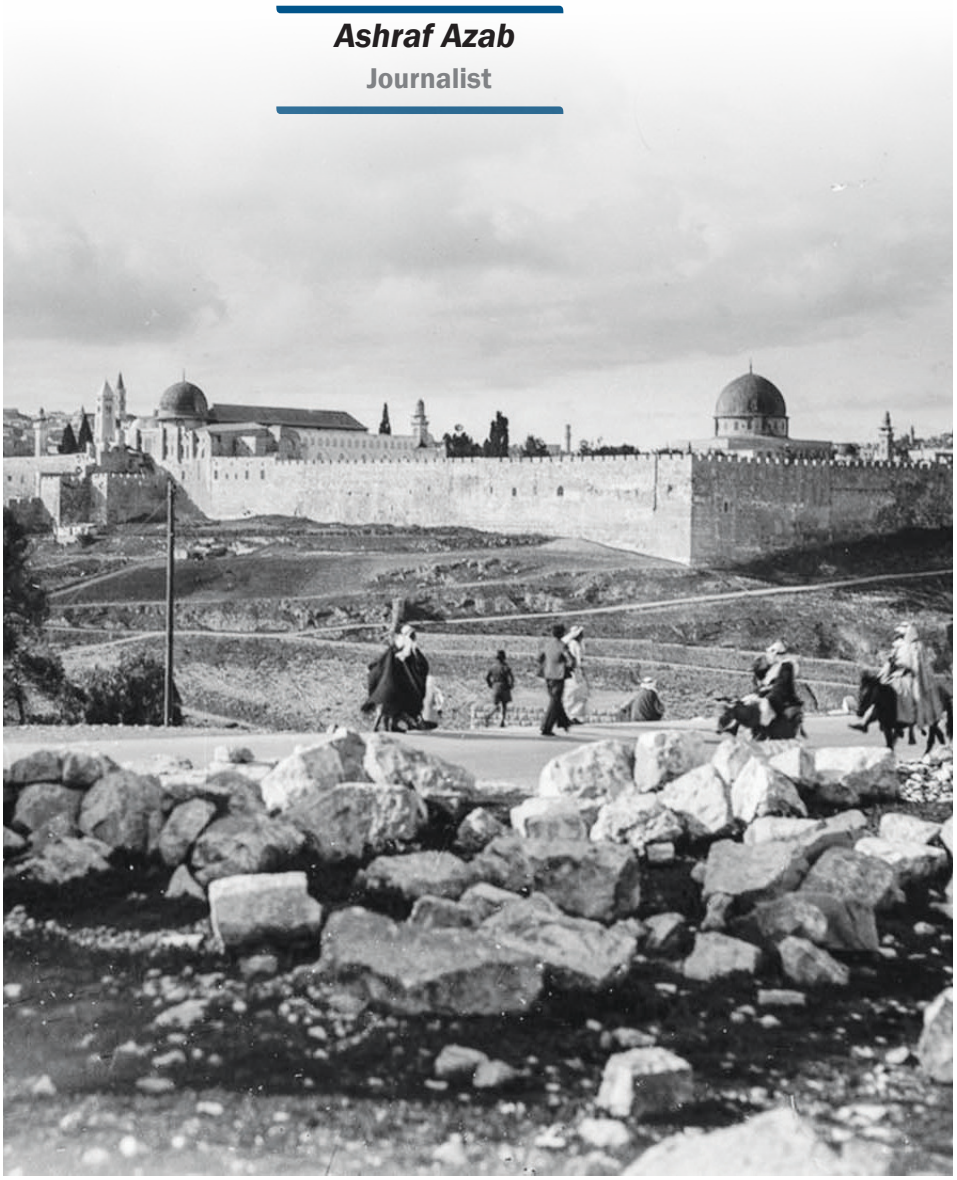
Signed by Ambassador Abdelhamid ZEHANI

Chief of the Permanent Mission of the League of Arab States in Brussels

275 - Ibid., para. 7.

Shams al-Din al-Maqdisi, the Great Traveler
The Greatest Geographer in Human History

Ashraf Azab
Journalist



The French Larousse encyclopedia, in its entry on Arab geography, states:[1] "If the reader seeks a marvel of geography in the eleventh century, they should not look to Europe, which had descended into barbarism, but rather to the Arabs."

When scholars—both Arab and Orientalist—unanimously recognize a particular work as extraordinary, their consensus carries immense weight. And when rigorous research affirms this consensus, the work in question becomes all the more valuable and worthy of reverence. Among the rare works to have earned such distinction is The Best Divisions for the Knowledge of the Regions (Aḥsan al-Taqāsīm fī Maʿrifat al-Aqālīm) by al-Maqdisi. This book has commanded admiration across generations, celebrated for its originality and insight.

The German scholar Sprenger[2] hails al-Maqdisi as "the greatest geographer humanity has ever known" and asserts that no one before him matched the breadth of his travels, the depth of his observations, or the meticulous structure he imposed upon his findings. The Dutch Orientalist Kramers[3] regards him as "the most original of Arab geographers" and deems his work "one of the most valuable geographical compositions in Arabic literature." The Russian scholar Kratchkovsky[4] acknowledges his "authenticity, ingenuity, and remarkable powers of observation" and describes him as "a towering geographer and one of the greatest Arab writers of all time."

Lé Strange[5], a leading scholar of Islamic geography, considers The Best Divisions "superior to all other works by Arab geographers and the most original among them." Dr. Shawqi Daif calls it "a true marvel"—akin to a cinematic reel that

1 - Muhammad Farid Wajdi, Encyclopedia of the Fourteenth Century, vol. 13, Cairo, 1386 AH / 1967 CE, p. 122.

2 -Aloys Sprenger: An Austrian-born orientalist who later acquired British citizenship (1893–1813).

3 -The Dutch orientalist Kramers (1951–1891).

4 -Ignatius Kratchkovsky (1951–1883), a Russian orientalist and one of the founders of the Russian school of Oriental studies.

5 -Guy Le Strange (1934–1854), an English orientalist specializing in the historical geography of Arabia and Persia.

vividly portrays the inhabitants of the world in all their distinct traits. Meanwhile, Dr. Nicola Ziadeh describes it as "a model of scientific writing—meticulously structured, systematically organized, and scrupulously classified."

The French Orientalist Régis Blachère, in his Excerpts from the Most Important Arab Geographers of the Middle Ages, asserts that al-Maqdisi's work is indispensable for understanding the Islamic world of that era. He credits the geographer's "ever-alert curiosity, exceptional tolerance, and rare capacity for comprehension" with making his book "a magnificent depiction of the world as he saw it, in all its vibrant complexity."

In 1906, the Dutch scholar De Goeje[6] republished al-Maqdisi's work in Leiden, while the German geographer Walter Christaller later drew upon his studies when formulating his Central Place Theory—a model of urban distribution in southern Germany in the early twentieth century.

According to Ibrahim Said, in his book Al-Maqdisi's Contributions to Geography and Regional Studies, al-Maqdisi stands at the pinnacle of Islamic geographical scholarship, alongside luminaries such as al-Istakhri, al-Balkhi, al-Hamdani, al-Mas'udi, and Ibn Hawqal al-Bagdadi. His meticulous depiction of the Islamic world in the fourth century AH (tenth century CE) remains unparalleled in precision and vibrancy. Said further asserts that "al-Maqdisi holds a unique status in Arabic geography, unmatched by any Arab or non-Arab geographer, whether medieval or modern—especially in his regional methodology and approach to the study of territories."

Birth and Early Life

Shams al-Din Abu 'Abdullah Muhammad ibn Ahmad ibn Abi Bakr al-Banna' al-

6 -Michael Jan de Goeje (1909–1836), a Dutch orientalist and a member of the Oriental Society in Leiden. His works include the critical editing and publication of Arabic geographical texts by al-Ya'qūbī and al-Balādhurī.

Shami al-Maqdisi al-Bishari was born in 335 AH (947 CE[7]) in Jerusalem to a native Jerusalemite father—hence his title, al-Maqdisi —and a Persian mother from the al-Shawa family, whose lineage traces back to the city of Biyar in the Qumis region near Khorasan. This blend of Arab and Persian heritage profoundly influenced his intellectual inclinations.

The thirteenth-century geographer Yaqut al-Hamawi referred to him as al-Bishari, while al-Maqdisi himself recounts with great pride his grandfather's contributions as a builder, including his involvement in the construction of Acre during the Tulunid dynasty. His inquiries into construction techniques reveal a deep-rooted affinity with his grandfather's craft, as he frequently engaged in discussions with builders in the regions he visited.

Throughout his writings, he frequently mentions his maternal uncle, 'Abdullah al-Shawa, and his grandfather, Abu al-Tayyib al-Shawa. He also provides an extensive description of Biyar and its people—where he stayed for four months—justifying this detail by noting that his maternal relatives hailed from there.

Travels

Al-Maqdisi embarked on his journeys in 356 AH (966 CE), setting out from Jerusalem to the Hijaz for the purpose of pilgrimage. From there, he traversed Iraq, the Arabian Peninsula, the Levant, Egypt, and Morocco. He also ventured into non-Arab lands, beginning with the eastern provinces of the Islamic world, including Daylam, Ar-Rihab, the mountains of Persia, Khuzestan, Faris, Kirman, and Sind.

He later moved to Baghdad, where he studied under its scholars and immersed himself in its vast libraries. His passion for geography led him to delve deeply into the existing geographical literature, meticulously examining what had been written before him and recording his own observations as he roamed the lands.

7 -He did not explicitly state the year of his birth; however, he mentioned that he authored his book in 375 AH / 985 CE after reaching the age of forty. Thus, his birth year can be inferred as 335 AH / 946 CE.

He spent long years of his life journeying across the Islamic world, gathering knowledge for his book. He traveled through Iraq, Jazīrat Aqūr, Egypt, Arabia, the Levant, Persia, and the lands of the Maghreb. As a result, his work, The Best Divisions for the Knowledge of the Regions, became an exemplary model of masterful geographical writing.

In his travels, he would disguise himself, change his name, and integrate into different communities to observe their customs and way of life. He risked his life on multiple occasions, often compelled to adopt a new identity from one region to another to ensure his safety and gain access to information. Over time, his aliases exceeded thirty, as he himself recounts:

"I have been called and addressed by thirty-six names, such as Palestinian, Egyptian, Maghrebi, Khurasani, Salmi, Reciter, Jurist, Sufi, Saint, Ascetic, Wanderer, Scribe, Stationer, Merchant, Preacher, Imam, Muezzin, Orator, Stranger, Iraqi, Baghdadi, Shami, Hanafi, Disciplined One, Inheritance Scholar, Master, Sheikh, Dāneshmand (Scholar), Neshāsteh (Starch maker), Rider and Messenger—names I assumed to suit the many lands I traversed and the countless places I entered."

His approach to cartography was remarkably vivid. He represented roads in red, golden deserts in yellow, seas in green, rivers in blue, and mountains in earthy tones, striving to make descriptions more tangible and accessible to the mind's eye.

His methodology was rooted in firsthand experience, meticulous observation, exhaustive inquiry, and the insights of scholars and jurists he met along his journeys. He diligently measured distances in farsakhs (parasangs), studied administrative divisions, and meticulously calculated land taxes. He describes his work with unwavering confidence:

"You should know that I built this book on solid foundations, reinforced it with strong pillars, and pursued accuracy with utmost diligence, seeking the wisdom

of discerning minds...”

Accuracy was his guiding principle, ensuring that every study was founded upon rigorous research and systematic organization. His scholarship was held in such high regard that Adam Mez[8] considered his book the pinnacle of Arabic geographical literature, unmatched in its portrayal of lands and their peoples.

His presence pervades his work so thoroughly that biographical sources of his time and those that followed make little mention of his life, as if his writings alone sufficed to reveal him. Perhaps this is because his scholarly contributions were largely confined to this one magnum opus—a common trait among the great geographical travelers of the era.

A seeker of knowledge, he explored prevailing schools of thought before ultimately dedicating himself to the Hanafi doctrine and the teachings of Abdullah ibn Amir. This decision profoundly shaped his intellectual path, leaving a visible imprint on his book.

In various passages, he recounts the hardships he endured during his travels, among the most remarkable and personal sections of his work. So striking were these accounts that they were translated individually into Dutch, German, Italian, Russian, French, and English between 1875 and 1946, under the title An Account of the Hardships I Witnessed.

Yet, his writing was not without its challenges. His penchant for ornate, rhymed prose often made his style difficult to grasp, even for scholars of Arabic. The Russian orientalist Kratchkovsky remarked, “His language and style belong not merely to the most challenging school of Arabic geographical writing but to the most complex linguistic expressions in the entire corpus of Arab geographers. His text is rich in rare and obscure words, as he had a distinct inclination for the unusual.”

8 -Adam Mez (1917–1869) was a Swiss-German orientalist who specialized in Arabic literature of the 4th century AH and beyond.

His Vision of Geography

He affirmed that the earth was spherical, divided by the equator into two equal halves, with the southern part predominantly covered in water and the northern part largely land.

True to his meticulous structuring, he adhered to the number seven in dividing the world's regions, believing, as he wrote, that:

"God Most High created the heavens and the earth in sevens, the days and nights in sevens, provisions in sevens, and the Quran was revealed in seven modes. Even the sacred mosques are seven in number."

While following the prevailing system of geographical classification, he acknowledged its conventions, stating:

"Every scholar in this field has categorized the regions into fourteen—seven inhabited and seven desolate. I have heard astrologers claim that all of humanity resides in the western part of the world... We adopt their accounts and the knowledge of esteemed astronomers, for such studies are essential in determining the qibla's direction."

He begins to trace the seven regions, whose delineation is based on the length of the shadow when day and night are of equal duration, specifically at noon. The first region begins where the noontime shadow, when day and night are balanced, measures one foot, one-half, one-tenth, and one-sixteenth of a foot, and it ends where the shadow at that time reaches two feet and three-fifths. The second region starts where the shadow, under the same conditions, measures two feet and three-fifths at noon.

Moving beyond traditional geographical classifications, he sought to redefine the Islamic world's spatial order. Rather than adhering to the established notion of

the world's division into latitudinal zones aligned with the equator, he embraced a more dynamic model, untethered from rigid conventions yet still rooted in the knowledge of his time.

In his description of the Islamic realm, he wrote:

"You should know that the realm of Islam, may God safeguard it, is not uniform in shape—neither square nor strictly elongated or wide. It is a vast expanse with intricate branches, best understood by studying the sun's rising and setting points, traveling its lands, traversing its routes, and measuring its regions in farsakhs."

He sought to determine its dimensions, sometimes using farsakhs, at other times measuring by travel stages and days' journeys.

It is worth noting that the exclusive focus on describing the Islamic world, rather than the entire globe, marked a shift in tenth-century geographical thought. Kratchkovsky classified this movement as the "classical school" of medieval Islamic geography, tracing its origins to Abu Zayd al-Balkhi of Balkh[9]. This tradition was later expanded by Abu Ishaq al-Farisi al-Istakhri[10], whose work influenced Abu al-Qasim Ibn Hawqal, an explorer who personally met al-Istakhri in 951 CE. Ibn Hawqal, in turn, dedicated his work to mapping the Dar al-Islam—the Abode of Islam.

Following this tradition, the Islamic world was divided into fourteen distinct regions: six Arab territories—Arabia, Iraq, the Jazira, the Levant, Egypt, and the Maghreb—and eight non-Arab lands—Khorasan, Daylam, the Ruhab, the Jibal, Khuzestan, Faris, Kirman, and Sind.

9 -Abū Zayd Aḥmad ibn Sahl al-Balkhī was born in 850 CE in the province of Balkh, Greater Khorasan.

10 -Abū Isḥāq al-Fārisī al-Iṣṭakhrī, also known as al-Karkhī.

Explaining his exclusive focus on
the Muslim world in The Best Divisions, he states:

"I did not include non-Muslim lands, nor did I see any benefit in mentioning them, for my concern lay solely with the regions of Islam."

Al-Maqdisi delineated each region—north, south, east, and west. Notably, his division relied on religion as the primary bond uniting the regions he examined, thus replacing the traditional measure of shadow length with faith. He then classified Islamic regions based on language, distinguishing between Arab and non-Arab territories. Within the Arab lands, his classification followed administrative and political considerations. For al-Maqdisi, a region was defined by religious, linguistic, and administrative criteria. The vast expanse of the Islamic world, encompassing diverse natural and human phenomena, necessitated such divisions to facilitate comprehension of similarities and differences within them.

At times, al-Maqdisi defended his regional classification by comparing it to other existing systems. He wrote: "If someone asks why I have paired Yemen with the East and the West, the answer is that the Prophet (peace be upon him) determined its placement when he set its pilgrimage stations. As for Khorasan, Abu Zayd divided it into two regions, and he is an authority in this field, especially in his homeland. There is no fault in my following suit. But if someone asks why, after citing him as an authority, I then unified Khorasan into a single region, my response is twofold: first, I did not wish to divide the realm of the Samanid dynasty; second, Abu Abdullah al-Jayhani[11], also an authority in this science, did not divide Khorasan either."

Al-Maqdisi further subdivided each region into kuwar (districts), each of which had a capital, and each capital encompassed cities. He described this hierarchy, stating: "You should know that we have likened the great cities to kings, the district capitals to chamberlains, the cities to the army, and the villages to the common people."

11 -Abu Abdullah Muhammad ibn Nasr al-Jihani was a vizier to one of the Samanid princes.

Al-Maqdisi's Sources in Regional Studies

Al-Maqdisi classified his sources into three categories: "The first is what I have witnessed firsthand. The second is what I have heard from trustworthy sources. The third is what I have found in written works."

By "what I have witnessed," he referred to firsthand field research—gathering information from personal travel, engaging with local populations, meeting scholars, conversing with judges, studying under jurists, and attending literary circles.

As for "what I have heard from trustworthy sources," he elaborated: "I inquired of those known for intellect and avoided those prone to confusion and ignorance. For distant regions I could not personally reach, I recorded only what was agreed upon, discarding disputed claims. That which did not sit well with my reason, I attributed to its source or prefaced with 'it is said.'"

Al-Maqdisi also scrutinized many books, reading them critically and identifying their flaws. He did not spare any text from his critique. For instance, he remarked: "As for Ibn al-Faqih al-Hamadani, he took a different approach, mentioning only the grandest cities, failing to arrange districts or military divisions, and inserting irrelevant sciences into his book. Al-Jahiz and Ibn Khurdazubah[12], on the other hand, were excessively concise, offering little practical benefit."

Al-Maqdisi's Approach to Regional Studies

Al-Maqdisi pioneered new methodologies in regional studies, striving to highlight the unique character of each region—an approach that aligns with modern geographical studies. He wrote: "The most charming region is Iraq, lightest on the heart, and sharpest for the mind… The most scorching, arid, and palm-laden is the Arabian Peninsula. The region with the most devout worshippers, scholars,

12 -He was Abu al-Qasim Ubayd Allah ibn Khurdazubah, born in Khurasan in the year 205 AH, though some sources claim he was born in 211 AH.

wealth, trade, specialties, and crops is Egypt."
He followed the conventional method of his time, known as astronomical geography, progressing from the general to the specific. He began with a description of the globe, then delineated the seven climatic zones, before defining the Islamic realm, which he divided into Arab and non-Arab regions.

His focus on the religious aspect was evident, as he commenced his study with the Arabian Peninsula—home to the Kaaba and the Prophet's city. He noted each region's direction of prayer, religious sects, and protected communities, integrating these aspects into what may be termed religious geography.

Al-Maqdisi's vision of the Islamic world unfolds like a vast, intricate tapestry, woven with the myriad contours of its lands and waters. He speaks of its ports, seas, lakes, and rivers, tracing the veins of civilization that pulse through its empires. He conjures the splendor of its renowned cities and storied towns, the well-trodden paths and bustling trade routes that bind its people together. His words capture the essence of commerce and craft—the alchemy of medicines and machines, the wealth of minerals, and the treasures of trade.

He lingers on the diversity of its inhabitants: the cadence of their tongues, the timbre of their voices, the hues of their skin, the ways of their faiths. He counts the measures of their markets, the weights of their wares, the currency of their dealings. He notes the taste of their food and drink, the sweetness of their fruits, the purity of their waters. He records their virtues and flaws, the riches they send forth and the bounty they receive.

He maps the perils that lurk along the journey—the vast distances, the treacherous sands, the salt flats and rugged heights, the fertile lands of plenty and the barren stretches of want. He speaks of sacred shrines and celestial observatories, of the unique customs and laws that shape their dominions. He marks the boundaries of their realms, the frontiers that divide them, the artistry of their hands, the wisdom of their minds. He gathers the echoes of their disputes and the weight of their

traditions, the whispers of their prayers and the shadows of their sacred rites.
His most innovative contribution was summarizing the distinctive features of each region in a concise section titled "The Essential Traits of This Region." These summaries included climate characteristics such as temperature and rainfall, dominant religious sects, prevalent languages and dialects, commercial activities, market conditions, and notable commodities. They also examined water sources, public health risks, mineral wealth, historical sites, social customs, tribal distributions, tax structures, and transportation routes. His exhaustive approach divided geographic knowledge into two main fields: physical geography and human geography.

Al-Maqdisi and Human Geography

Muslim geographers devoted significant attention to human geography. There is scarcely a subfield of contemporary human geography that was left untouched by them. In Ahsan al-Taqasim fi Ma'rifat al-Aqalim, Al-Maqdisi examined regions in terms of linguistic differences (linguistic geography), trade and exchange (commercial geography), agriculture and food production (agricultural geography), cultural traits and social customs (civilizational geography), religious sects and recitations (religious geography), and urban planning and population distribution (urban geography).

A proper introduction to any scholarly work must define its discipline, for this dictates its direction and ensures its integrity. Al-Maqdisi, with his broad and comprehensive vision, did not overlook this. At times, his perspective was tinged with pride, believing his work—and himself—to be unparalleled. He explicitly defined his field as the study and description of Islamic regions and their characteristics. In applying this vision, he encountered numerous challenges, forcing him to rely on judgment and adaptation. He acknowledged that his classifications served a specific function, aligning with Abu Zayd al-Balkhi's view, whom al-Maqdisi revered. He quoted al-Balkhi approvingly: "Combining or separating these regions serves no greater purpose than clarifying their cities

and rivers, easing explanation and representation." He then added: "By my life, he spoke the truth! No right is denied nor falsehood upheld in these divisions. Have you not seen how scholars of the past held differing views, advanced and retracted, inherited and innovated, permitted and prohibited—and the people accepted it? No wise person found fault in this. Even the Prophet (peace be upon him) endorsed it when he sent Mu'adh to Yemen, and the Companions acted upon it. So why should we not, too, form our own perspectives and exercise judgment in this science?"

Al-Maqdisi's insistence on immediate, firsthand description lends his work a literary quality, yet he firmly retained its core as a work of geography. He declared: "Knowledge in this field is too vast for mere repetition, borrowing from other books, or plagiarism—except in cases of necessity."

His work is distinguished by two major qualities:

1. A rigorous scientific methodology, which, as Brockelmann noted, provided an exceptionally clear and richly detailed depiction of the Islamic world.
2. An emphasis on direct field study, which fostered a strong personal presence in his work. This balanced the content, steering it away from dry scientific formalism while avoiding excessive subjectivity.

Al-Maqdisi: An Ethnographic Traveler

Travel accounts are invaluable historical records, offering firsthand observations of political, economic, social, and cultural conditions, as well as geographical landscapes. They also serve as rich biographical sources for scholars overlooked by traditional biographical works.

Al-Maqdisi stands as a quintessential ethnographic traveler, blending travel with

ethnographic[13] study in his descriptions of the Islamic East. Some scholars even consider him the founder of ethnographic methodology among medieval Muslim travelers.

When al-Maqdisi describes a place, he does so as though painting an intricate, finely detailed tableau, where historical and geographical knowledge intertwine seamlessly. His keen appreciation of architectural beauty, his refined aesthetic sense, and his deep awareness of human conditions are all evident. He conveys his observations and impressions with the precision of a camera capturing reality in all its contradictions.

Al-Maqdisi was, by and large, an astute observer—a meticulous scholar and a discerning critic. He was scrupulous in verifying the information he transmitted, and he took a particular interest in curious anecdotes and peculiar customs. One such account describes how the doors of Baghdad's grand mosque were flanked by ablution stations where people paid a fee to use them. Elsewhere, he summarizes the significance of Aden with a striking phrase: "It is the vestibule of China, the port of Yemen, the treasury of the Maghreb, and the wellspring of commerce."

The term ethnography—an Arabized word—refers to the descriptive study of a people's way of life, their customs, traditions, values, artifacts, arts, and folklore over a defined period. It is, in essence, a meticulous and interconnected portrayal of human cultures. Put differently, ethnography concerns itself fundamentally with the description of regions, the character of their inhabitants, and their modes of living. The preface to al-Maqdisi's Ahsan al-Taqasim offers a comprehensive elucidation of the themes and subjects pertinent to the study of regions, human temperaments, and social customs—all of which are integral to the ethnographic portrayal of a society's lifestyle.

More significantly, al-Maqdisi may well have been the first to recognize the necessity of establishing an academic discipline dedicated to these inquiries, given their broad utility for both scholars and the general public. He articulates

13 - Ethnography: The description of peoples is the systematic study of people and cultures.

his vision for such a field of knowledge, writing:

"Scholars have long aspired to compose books so that their legacies do not fade, and their knowledge does not perish. Wishing to follow their path, I sought to establish a science that would preserve my name and benefit humankind, thereby pleasing my Lord. I found that the scholars before me had pioneered various sciences, classifying and refining them. Yet, I noticed that they had neglected—if not entirely overlooked—one particular field: the study of Islamic regions, their seas, lakes, and rivers; the renowned cities and settlements; the roads and trade routes; the sources of medicinal herbs and tools; the mines that yield goods for commerce; the linguistic and phonetic variations of peoples; their dialects, complexions, beliefs, weights, measures, currencies, and trades; their food, drink, and produce; their customs, virtues, and shortcomings; the goods imported and exported; the waystations and distances between towns; the deserts, mountains, and valleys; the fertile lands and barren expanses; the shrines and observatories; the defining traits of regions; the political borders; the crafts and sciences; the places of worship and pilgrimage. This, I realized, was a field indispensable to travelers and merchants, essential to the pious and the wise. It is a science coveted by kings and nobles, sought by judges and jurists, cherished by the common folk and the elite alike. Every traveler benefits from it, and every merchant profits from its knowledge."

Within this passage lies a lucid reference to numerous cultural and civilizational elements—both tangible and intangible—that are the very concern of ethnographers. His approach integrates environment and humanity, presenting a holistic account of the lifestyles and traditions of diverse peoples. Furthermore, he highlights the scholarly value of such descriptive knowledge regarding regions, inhabitants, and their customs. In his rich depictions of various lands, al-Maqdisi provides an abundance of detail on the moral fabric, societal structures, and daily lives of their peoples.

From another perspective, Dr. Anwar Abdul Aleem, in his book Navigation and

Maritime Sciences Among the Arabs, notes that the earliest known reference to Arabic nautical guides appears in al-Maqdisi's Ahsan al-Taqasim, written in the tenth century. Al-Maqdisi recounts his extensive travels, saying:

"I traversed nearly two thousand parasangs, circumnavigating the entire island [Arabian Peninsula], from the Red Sea to 'Abbadan, aside from those occasions when our ships drifted toward its islands and open waters. I accompanied elders who had been born and raised in those maritime realms—shipmasters, pilots, astronomers, agents, and traders. I found them to be the most knowledgeable people regarding its coasts, anchorages, winds, and islands. I questioned them on its mysteries and boundaries, and I saw the nautical manuscripts they studied and relied upon, from which they derived their knowledge and navigational expertise."

Al-Maqdisi's Account of Jerusalem

Among the extensive chronicles of Arab and foreign travelers to Palestine, none surpasses the eloquence and completeness of al-Maqdisi's descriptions of Jerusalem and the surrounding cities. His unparalleled text on the Levant, as recorded in Ahsan al-Taqasim, serves as a geographical, historical, social, and economic document that captures the region during a pivotal period—one marked by the transition from Abbasid to Fatimid rule.

The scholar Zakaria Muhammad, in an article titled The Geographer al-Maqdisi and the Text of Palestinian Identity (al-Tareeq magazine, Ramallah, Issue 23, April 2005), argues that al-Maqdisi was the first Arab scholar to explicitly articulate a Palestinian identity in historical writing. He substantiates this claim by referencing passages from Ahsan al-Taqasim, asserting:

"We possess at least one definitive text that proves Palestine had an identity at least a thousand years ago—written by none other than one of its greatest intellectuals and one of the finest minds of classical Arab culture: the geographer al-Maqdisi."

Al-Maqdisi, describing his birthplace—Jerusalem—offers a meticulous and evocative portrayal of the city, the al-Aqsa Mosque, and the Dome of the Rock. His account provided the foundation upon which later scholars, such as Yaqut al-Hamawi in his Mu'jam al-Buldan, would build. He writes:

"There is no city within the provinces greater than it, though there are capitals smaller, such as Istakhr, Qa'in, and al-Farama. It is neither intensely cold nor oppressively hot, and snow seldom falls upon it. When Judge Abu al-Qasim ibn Qadi al-Haramayn asked me about its climate, I replied: It is mild—neither too hot nor too cold. He responded, That is the very description of paradise.
Its buildings are of stone, unparalleled in beauty and craftsmanship. Its people are virtuous and chaste, its way of life delightful, its markets pristine, its mosque grander than any other, and its sacred sites abundant. Its grapes are unrivaled, and its doctors and scholars are the finest. Every day, it welcomes strangers into its fold."

In another anecdote, al-Maqdisi recounts a conversation in Basra where he steadfastly defends the supremacy of his homeland:
He says:
"One day, while I was in the assembly of the esteemed judge, al-Mukhtar Abu Yahya ibn Bahram in Basra, the conversation turned to Egypt. I was then asked: Which city is the most exalted?"

I replied, "Our city."
They asked, "And which is the finest?"
I said, "Our city."
They asked, "Which is the most virtuous?"
I said, "Our city."
They asked, "Which is the most beautiful?"
I said, "Our city."
They asked, "Which is the most abundant in blessings?"

I said, “Our city.”
They asked, “And which is the greatest in size?”
I said, “Our city.”
The assembly marveled at his words, and someone remarked, “You are a learned man, yet you have claimed something beyond acceptance. Your case is like that of the man with the she-camel before al-Hajjaj.”

I replied, “As for my statement that it is the most exalted of cities, it is because it unites both the temporal and the eternal. Whoever is devoted to worldly pursuits but seeks the hereafter will find the path to it here. And whoever belongs to the hereafter yet yearns for the blessings of this world will find them in abundance. As for its air, it is neither the stinging chill of bitter cold nor the oppressive scorch of searing heat. As for its beauty, I have seen no city more exquisitely built, none cleaner, none more immaculate than its mosque. As for its plentiful bounty, God has gathered within it the fruits of the valleys, the plains, and the mountains, bringing together contrasting wonders: citron and almonds, fresh dates and walnuts, figs and bananas.

As for its merit, it is the courtyard of the Resurrection, the gathering place of souls, the site of the final awakening. If Mecca and Medina surpass it, it is only by virtue of the Kaaba and the Prophet—peace and blessings be upon him. But on the Day of Judgment, those two sanctuaries shall be brought to it, and then shall it encompass all excellence. As for its vastness, all creation shall be gathered upon its land—what earth, then, could be more expansive than this?”

They found my reasoning sound and acknowledged its truth.

His discourse on Jerusalem concludes with mention of its perpetual charities and the presence of appointed cooks and servants, who daily prepare lentils with oil for every impoverished soul who comes seeking sustenance. He then continues, describing the lands surrounding the heart of Jerusalem: a short distance away, at a farsakh from Hebron, rises a small hill overlooking a tranquil lake near the

villages of Lot. There, Abu Bakr al-Sabahi built a mosque that houses the resting place of Prophet Ibrahim—peace be upon him. His tomb has sunk into the rocky ground by nearly a cubit. It is said that when Ibrahim beheld the villages of Lot suspended in the air, he lay down upon that very spot and declared, I bear witness that this is the ultimate truth.

Al-Maqdisi offers a unique delineation of the sacred bounds of Jerusalem, stating:

"The limits of al-Quds extend from the outskirts of Iliya to a radius of forty miles, encompassing its heartland and its satellite towns, stretching twelve miles into the sea, and including Sughar and Ma'ab. Five miles extend into the desert, while to the south, its boundary reaches beyond al-Kasifa and its environs. To the north, it borders the lands of Nablus. This is the blessed land, as proclaimed by God Almighty—its mountains adorned with trees, its plains fertile with crops that flourish without irrigation or rivers. As the two men said to Musa ibn 'Imran, We have found a land flowing with milk and honey."

Al-Maqdisi then turns to al-Ramla in Palestine, believed to be his ancestral city, offering this portrayal:

"Al-Ramla is the capital of Palestine, splendid and beautifully constructed. Its waters are light, its fruits abundant, its air gentle. It brings together contrasting elements: noble villages and thriving cities, sacred shrines and prosperous hamlets. Trade flourishes, and livelihoods are bountiful. Nowhere in Islam is there a mosque more resplendent than its grand jami', nor streets more graceful, nor a province more blessed, nor fruits more delightful.

Set amidst illustrious ribats, it boasts elegant inns, pristine bathhouses, spacious homes, and magnificent mosques. Its streets are wide, its avenues vibrant. It lies upon a plain, near both mountain and sea, cultivating both figs and palms. Its fields yield crops watered by rainfall alone, and it abounds in bounty and virtue. The only flaw is that it sits upon an island of mud, and in summer, its sand turns

to fine dust."

The Dome of the Rock

Al-Bishari al-Maqdisi describes the Dome of the Rock in these words:

"At the heart of al-Aqsa Mosque lies an elevated platform, accessible by broad stairways from all four sides. At its center stands the Dome of the Rock, built upon an octagonal foundation, with four grand gates—each aligned with a stairway. These are the Southern Gate, the Gate of Israfil, the Gate of the Trumpet, and the Gate of the Women, all opening westward. Each gate is adorned with gilded doors of exquisite cypress wood, commissioned by Umm al-Muqtadir Billah.

Within, three arcades encircle the space, upheld by columns surpassing even marble in grandeur and craftsmanship, without equal in all lands. These arcades rest upon inner corridors, enclosing another circular arcade that surrounds the sacred rock—not an octagon, but a true ring—supported by intricately crafted columns and graceful arches. Above these rises a soaring structure, suspended in air, with grand arched windows illuminating its expanse.

The dome itself, rising from this foundation, soars a hundred cubits from its base, capped by a magnificent spire that gleams from afar. It is clad in gilded brass, a spectacle of wonder.

The dome consists of three layers: the first, adorned with painted panels; the second, reinforced with an iron framework to withstand the force of the winds; and the third, a wooden shell covered in shining plates. At its center, a concealed passage allows craftsmen to ascend for maintenance and repairs. When the sun's rays strike its surface, the dome radiates brilliance, and the entire structure shimmers with an ethereal glow. In all the lands of Islam—and indeed in all the realms of idolatry—there exists no dome to rival it."

Conclusion

The words of Dr. Muhammad Mahmoud Muhammadain, written in the preface to his study The Holistic Nature of Geographical Thought in Classical Literature (April 1984), serve as the most fitting conclusion to this discourse on the geographer and traveler al-Maqdisi al-Bishari. His words, rich in meaning and devoted to the revival of our intellectual heritage, echo with wisdom:

"A nation on the rise accords great importance to its scholarly heritage, for it is the legacy of its forebears. A people who neglect or forsake their past are left bereft of cultural identity. The preservation of heritage must go beyond mere cataloging of books and mapping their locations, beyond the acquisition of manuscripts or the superficial praise of their authors. Rather, it must inspire rigorous research, for despite the wealth of studies on our Islamic geographical heritage, much remains in dire need of sincere and thorough reevaluation. We must return to this legacy with a critical and objective lens, illuminating its obscured depths and bringing to light the profound contributions that Muslim scholars have made to the intellectual cartography of the world."

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THE URBAN DEVELOPMENT OF THE AQSA MOSQUE AREA DURING THE UMAYYAD PERIOD.

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Abstract:

This paper deals with Jerusalem as one of the holiest cities for Muslims after Mecca and Medina. Its holiness is attributed from being the first Qibla (Prayer direction) and from the famous Night Journey of the Prophet Muhammad (PBUH) between Mecca and Jerusalem.

The city received a special attention since it became an Islamic City mainly from the Second Orthodox Caliph Umar ibn al –Khattab, who came personally to capitulate the city, and from the First Umayyad Caliph Mu'awiyya Ibn Abi Sufian, who transferred the political centralization to the Holy City. The paper also focuses on the urban development of the Aqsa Mosque Area, which forms the eastern part of the pre-Islamic city, through rehabilitating the area to be convenient for the Muslims' use. This is clearly apparent by the structure of the Aqsa Mosque's building, done by Umar and Mu'awiya, and by the structure of the most prominent project in the history of Islamic Architecture which includes, The Dome of the Rock, The Aqsa Mosque, The Amir Palace (Dar Al-Imara), and the construction and reconstruction of walls and gates around the whole Area.

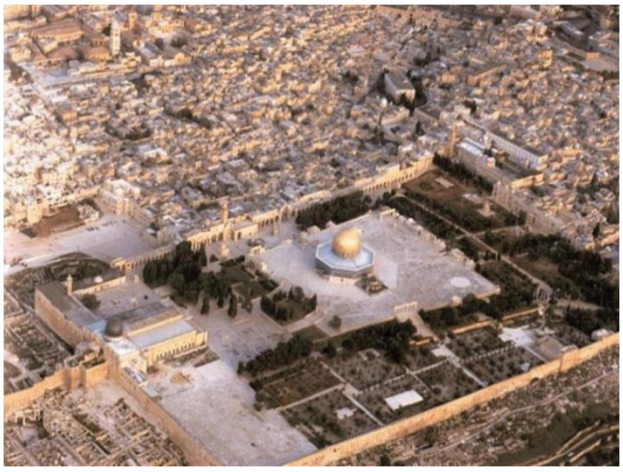

Figure (1): the Arial view of the Aqsa Mosque Area.

Jerusalem is one of the Holiest three cities for Muslims, following Mecca and

Madina. Its Holiness is attributed to two principal reasons: The first stems from its being the first Qibla before Muslims were directed towards the Ka'ba (Sura ll.144), and the second from the famous Night Journey of the prophet Muhammad (PBUH) between Mecca and Jerusalem. The description of this Journey is clearly recorded in the Qur'an verse on Isra' to al-Masjid al-Aqsa (Sura,17:1). In addition to these two events, many of the Prophet's Hadiths (Traditions) indicate the Holiness and the importance of this city for Muslims. The following Hadiths attest to this fact (You shall journey to but three Masjids (Mosques), Al-Masjid al-Haram(at Mecca),al-Masjid al-Aqsa(at Jerusalem) and my Masjid (at Madina) (al-Hanbali,1973,vol.1:231), and (Whoever wants to see a part of the Paradise, let him look to Bayt al-Maqdis). Another Traditional saying told by the Fourth Rashidi (Orthodox) Caliph "Ali Ibn abi Taleb is (The most exalted spot is Bayt al-Maqdis, and the most exalted Rock is the Rock of Bayt al-Maqdis) (Dabbagh,1988,vol.3:82-83).

Moreover, the Holy City is of many virtues, which are well recorded in historical sources. Most important of which are al-Wasiti, 1979; al-Suyuti, 1984; al-Hanbali, 1973 and al-Maqdisi 1994.

Jerusalem became an Islamic City in the first half of the seventh century A.D. when Muslims entered the Holy City in 16 A.H./A.D.638 during the reign of the Second Rashidi (Orthodox) Caliph 'Umar ibn al-Khattab. According to the historical sources, the Caliph 'Umar came personally and especially to take over the City from its Patriarch, at that time, Sophronius who refused to capitulate the city to anyone except 'Umar. The sources also indicate that the Caliph declared a special Covenant (Sulh,'Ahd) to the Christians living in the city with its text developed in time to be known as the Covenant of 'Umar. In this Covenant the Caliph guaranteed further religious freedoms, safety of churches and secured lives, fortunes and properties of the people living in the city (al-Hanbali.1973,vol.1:254), al-Waqidi, 1966, vol. I:PP 168-169).

Despite the above mentioned secured Covenant, many of them left the city and were replaced by Muslim inhabitants who, according to the Encyclopedia of Islam mostly, were from Madina (Encyc.of Islam, 1980. Vol,V:324).

It is believed that Jerusalem was influenced by the Islamic System as soon as Muslims settled in the city, and there is no doubt that life was built basically

on religious and political basis. This can be seen from the attention which the Caliphs paid to Jerusalem starting from the time of the Second Muslim Rashidi (orthodox) Caliph"Umar ibn al-Khattab. He came personally to Jerusalem not as a religious leader but as the Prince of Believers "Amir al-Mu'mineen", a title which carries a very clear political meaning. Also, his coming in person manifested the political dimension of the city since he was the Governor , the head of the army, the decision-maker, and the highest authority in the Islamic State.

Jerusalem had been singled out in this visit from other cities that were conquered in the reign of this Caliph. Umar did not enter Jerusalem to sign the peace treaty in accordance with his religious status only, but entered it as a Commander of the Faithful, including all clear political implications of the post. His visit to the Holy City expresses the religious and political importance of the city which represents the highest strategy of the State. The Caliph Umar ibn al Khattab became the Guarantor and Defender of the Holy Places after his entry to the city since authority had been taken away from the Byzantine rulers (Athamneh, 1996:386-388). As a result, Umar's connection with Jerusalem continued after his first visit to the Holy City.

According to historians, Umar paid his second visit to the city in the year 643/644 where he ordered a mosque to be built, which is believed to be the first Aqsa Mosque (The ophans, 1982:42). He also worked during this visit on the administrative arrangements of the region. Historical sources indicate in this course that Jerusalem became the Capital of the Greater Syria and was also privileged by the independence of Justice, where the Caliph appointed Ubadah ibn Assamet Al-Samit Al Ansary as the first Judge in the Holy City (al-Maqdisi,1994:315, al-Hanbali,1973, vol.1:261.

Jerusalem came later under the Umayyads Ummayyads' command who ruled the Islamic world from 660-750. Mu'awiya became the first First Umayyad caliph Caliph. He provided the centralization essential for the survival, continuing the expansion of the Arab State.

The Umayyds lent significant importance to Jerusalem to strengthen their political and religious relationship with the Holy City. The first is clear with the Umayyad Caliph Mu'awiya ibn abi Sufian who took his oath of allegiance (Bay'a) in Jerusalem(al-Maqdisi, 1994:312), and was then known as the Prince of the Holy

Land (Amir al-Ard al-Muqaddasa). This event from Mu'awiya gave the Holy City a further political importance; it became not only the central part of the Great Syria but for all the Islamic State . The historical sources, recorded several indications that Mu'awiya used to spent most of his time in Jerusalem. He used to meet with people in its quarters and often delivered the Friday Sermon in the Aqsa Mosque (Ibn al-Murajja, 1995:148). As for the political practice, the political capacity of Jerusalem during Mu'awiya's reign has exceeded the capacity of any regional Capital of the Syrian districts or other Islamic countries. Jerusalem was not only a center of region but it was the Capital of all the Greater Syria under Mu'awiya's power (Athamneh,1996:404).

Comparing Damascus with Jerusalem in the Umayyad period, it appears that Jerusalem's role as a theatre for political events far exceeded Damascus' role; especially at the Caliph's level. It was not a coincidence that Mu'awiya's oath of allegiance took place in Jerusalem as a matter of non-reversible attitude, regarding this matter, the other Umayyad Caliphs followed Mu'awiya's tradition and took their oath of allegiance in Jerusalem. 'Abed al-malik Ibn Marwan, the Second founder of the Ummayyad rule, took his oath of allegiance in Jerusalem in 65A.H.684A.D (Ahtamneh, 1996:410). This connection with the Holy City was also strongly developed as he had resided for a long time in Syria and was the Governor of the Province of Palestine during the Caliphate of Mu'awiya, which ended in 680A.D.

Moreover, with Suleiman Ibn Abed Al-Malik the city reached its centralization peak during his rule. When he came to Jerusalem, after the death of al–Walid, he received the delegation in the Aqsa Mosque courtyard, the area between the Dome of the Rock and the Aqsa Mosque's buildings. He also resided in the city and moved the official documents (Dawawins) and the income tax document (Diwan al-Kharaj) to Jerusalem during his reign (al-Hanbali,1973,vol.281-282). The accounts indicate that there can be no doubt that Suleiman took the final decision to make Jerusalem the Capital of the Islamic Caliphate. To prove the previous point, he was not there only to receive delegations, but also for dealing with people's needs and problems that were supported by the documents (dawawins) which he moved to the city (Ibn al-Murajja,1995:226;Athamneh,1996:413). Though the assumption of him constructing the al- Ramla has weakened the

centrality of Jerusalem appears with no evidence. Though Suleiman planned the city of Ramla and built parts of it, such as the Palace and the dye house, but he the mosque he wanted to built wasn't completed during his reign but by his successor 'Umar Ibn Abed al-Aziz. Therefore, having the mosque not being completed during Suleiman's reign clarifies the incorrect opinion which connects both matters (Athamneh 1996:401). Jerusalem continued to be the same during the rule of his successors, mainly during 'Umar Ibn Abed al-Aziz, who gathered the high ranking employees of the Islamic State to discuss its affairs in Jerusalem. This, as a matter of fact, confirms that all the official documents continued to be available in the city during his reign.

The Layout of the City:

This importance by the Umayyads was manifested by the development of the Holy City. The layout and planning of the city during this period continued to be the same as the Byzantine one but with significant change concentrated mainly on the eastern part within and around the enclosure of the Aqsa Mosque Area. This can be taken from Madaba map which is considered as the earliest evidence to tell us about the plan of Jerusalem, before the Umayyad period.

Figure (2): The Madaba map showing the plan of Jerusalem

The map was found in Madaba, in Jordan, decorating the floor of a church. It was discovered in 1896 and it dates back to the 6th century during the reign

of the Byzantine Emperor Justinian. The layout of Jerusalem in Madaba map is important not for the shape of the city, but for its components. The map shows the city walls with its towers and gates of which the main northern one is the gate of the column (in Arabic Bab al- A'mud) which is characterized by its open space plot (plaza) with a column in the centre of the plot. The Jaffa Gate is on the south western part, which today is occupied by the Citadel and the Jaffa Gate. Also the major streets, the Cardo, with its two arcades straight from Damascus Gate to the Zoin Gate , and the eastern colonnaded street with only one row of columns, following the low road into the (bab al –Wad) Tyropean Valley and the Dung Gate of today. The Decumanus Street connects the two north–south roads to the western Gate and the administrative or political Center of the city. It also shows the three major sanctuaries, the complex of the Holy Sepulcher, the New Church, and the church of mount Zion (Grabar 1996:31;Avi-Yonah 1954;Avigad 1980:211-212).

This development in the Holy City is proved by the architectural buildings constructed by the Umayyads on the Aqsa Mosque Area. They introduced to the city a distinguished style of architecture characterized by employing diverse building techniques, workmen of several different nationalities and a combination of eastern and western elements which produced characteristic Islamic monuments. These monuments were built according to a well arranged and harmonious plan, started at the beginning of their rule, and it consisted of: the walls and gates of the city, the Dome of the Rock, the Aqsa Mosque, and the Caliph's Palace . The earliest indication of structure on the Aqsa Mosque area is reported by the Christian traveler Arculf who visited Jerusalem in 670 A.D. and lived in the city for about nine months. He reported nothing about the Islamic City of Jerusalem except for his short description of a square prayer house "on the spot where the Temple once stood near the eastern wall, the Saracens have now erected a square house of prayer in rough manner by raising beams and planks upon some remains of old ruins; this is their place of worship and it is said that it will hold about three thousand men" (wright 1948:1-2).

The period during which Arculf visited Jerusalem coincided with the reign of the Umayyad Caliph Mu'awiya, who ruled from 40-60A.H. 660-680A.D. Therefore, the Mosque which was reported by Arculf is either that built by Umar and restored

by Mu'awiya or the Mosque which was built by Mu, awiya..

The Walls and Gates:

To achieve this great and harmonious project on the eastern and southern sides of the Holy City it is important for the walls around the area to be repaired and protected so as to hatch the structural arrangements of these monuments. According to research work and analytical studies on the gates surrounding the Aqsa Mosque area, it appears that they are all of Umayyad date construction. In his article (Bayt al-Maqdis part I), Burgoyne dated several gateways to the Umayyad period. Some of them are the present Triple Gate, al-Hitta, al-'Atm, al-Silsila, the Double Gate and the Golden Gate. However according to him the three other Gates: al-Ghawanmeh,al-Nazir, and al-Asbat are more likely to be part of the major Umayyad renovation of the Aqsa Mosque area Area (Burgoyne1999:215), (Eliad 1985: 20-21). Another indication regarding this matter, as a result of research by Seligman, confirms the Umayyad structure of the Double Gate and the Triple Gate located on the southern wall of the Aqsa Mosque. Seligman also agreed with other Scholars upon the Umayyad date of structure for the Solomon's Stables, which were built by the Umayyad rulers in the seventh century as part of the extensive work to re-establish the esplanade of the Aqsa Mosque Area, and also included the external walls (Seligman2007:37).

Inside these walls the area was adorned by the two monumental buildings, the Dome of the Rock and the Aqsa Mosque, which are among the earliest achievements of Muslim Architecture.

Monumental architecture means power, in more specificity, political power. It reveals not only the aesthetic and formal preferences but also the aspirations, power struggles and material culture for society. This can be declared by the forceful presence of the Dome of the Rock as was the first monument sponsored by a Muslim ruler that was conceived as a work of art, a monument deliberately transcending its function by the quality of its forms and expression.

Figure (3): The Aqsa Mosque Area looking East-West.

A monument constructed to make a statement for the whole city of Jerusalem and for its surroundings that it is the first landmark in the city. Even in the contemporary setting of a modern city with its tall massive buildings over the hilly landscape, the Dome of the Rock, with its unique external shape and shinning Dome, still dominates much of the old city of Jerusalem (Grabar 1996:54,1o4). The Dome was built by 'Abd al-Malik Ibn Marwan between 66 and 72 A.H. 685-691 A.D. and covers the Holy Rock.

Figure (4): General view of the Dome of the Rock

It is octagonal in shape and is composed of an outer octagon shape, forming the structure of the building, and an inner octagon shape made up of arcades carrying

the ceiling, extended from the outer octagon and the dome's drum. There is also a circular arcade whose piers are separated by three columns which carry the circular masonry drum bearing wooden –doubled domed structure (Creswell, 1989: 19-40).

The reason for building this monument, according to Jerusalem native Geographer al-Maqdisi, is to compete in splendor with the Church of the Holy Sepulcher (al-Maqdisi 1906:173). However, al-Ya'qubi, the ninth century Historian , in the contrast believed that it was built to draw the pilgrim traffic away from Mecca and Medina to Jerusalem (Al-Ya,qubi 1883,II:311). The first account by al Maqdisi appears to be convincing, however, the one by al Ya'qubi was refuted by Scholars, as he bore allegiance to the Shite faction of Islam, whereas the Umayyads were adherents to the rival Sunni Sect. It appears to me that the construction of this monument is attributed to a political reason probably indicating the Islam triumph over the other religions, and also shows the power and control of the Umayyad rulers.

The second monument inside the walls is the Aqsa Mosqe building. It is the largest building on the Aqsa area, located on the southern side of it. Unlike all mosques of this kind, it does not have clearly delineated courtyard of its own, unless one considers the whole Aqsa Mosque Area as the "sahn" court for this prayer hall (Grabar 1996:117).

Figure (5): General view showing the present Aqsa Mosque.

The Umayyad Aqsa Mosque was built between 90-96A.H. 709-715A.D., by the Umayyad Caliph Abd al-Malik and his son al-Walid. The plan of the mosque comprises of central and lateral naves. The central nave is wider and higher than the laterals, all covered with wooden roof with lead sheets and ended with a dome on the southern side, and it is surrounded by three lateral naves on its east and west sides . The mosque's seven gates are open to the north. The tenth century Geographer al-Maqdisi, however, indicated that the Aqsa Mosque had fifteen gates open to the north side (al-Maqdisi 1906:169), and supporting his description, The Persian traveler Nasiri Khisru Khusrau who visited the city in 1045, gave the same description for the plan of the Mosque (Nasir-I Khusrau 1970:25).

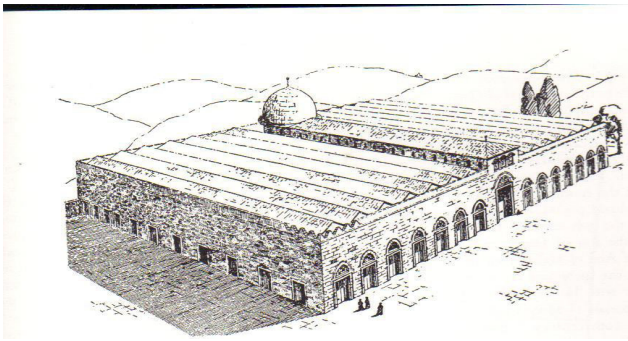

Figure (6): Reconstruction of the original Aqsa Mosque, 8th century A.D. after Rosen Ayalon (Jerusalem Revealed).

The question which has to be asked is, if that was the 'Abd al-Malik and al-Walid Mosque, then where is the mosque of Umar and Mu'awiyau'a which was indicated by Arculf. To clarify that a historical account by al-Mutahar Ibn Taher al-Maqdisi indicates that Bayt al-Maqdis continued to be ruined until the coming of Islam, and it was built up by Umar and then by Mu'awiyya ibn Abi Sufian (Athamneh 1996:400).

Figure (7): Solomon's Stables. The discovered arches after restoration.

After the renovation of the Solomon's Stables, an emergency gate was required for the safety of people praying inside. The work by the Waqf succeeded to uncover seven arches on the northern wall of the hall.

These arches are semicircular in shape, built of well dressed stones on strong stone piers. The architectural analysis dated the structure to the Umayyad period, therefore the structure of the Solomon's Stables could probably be identified as the mosque of Umar which was renovated by Mu'awiya, and the one seen by Arculf, though it could be the first Aqsa Mosque. However, regarding the building which was built by Abd al-Malik and his son al-Walid, which part of it still stands is the second Aqsa Mosque (Rosen Ayalon 1989:7), I would believe that the Umayyad modified the available structure by removing the wooden roof, reinforced its piers, and reconstructed the roof using the barrel vaults system, so as to be strong enough to carry the huge structure of the second Aqsa Mosque building.

Figure (8): Solomon's Stables, barrel vault roof and piers.

The third monument constructed on the area is the Complex of Dar al-Imara. It was discovered behind the southern wall of the Aqsa Mosque on the south west corner.

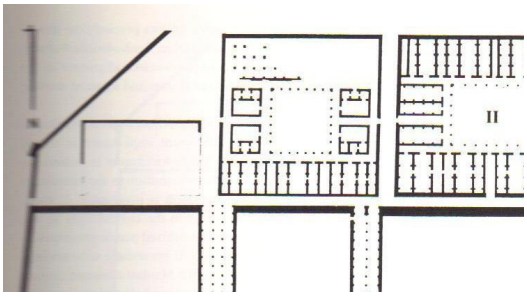

Figure (9): Plan and photo of the Umayyad Palace and its auxiliary buildings.

Six structures were found evidently planned as complex in conjunction with the Aqsa Mosque Area. To make room for this complex of the Palace and the other joined buildings, the Umayyad architects were forced to rezone and replan the

area adjoining the Aqsa Mosque. The most important structure was building II, which the excavator suggested that it was a palace. The palace is rectangular in shape with open courtyard paved with Glastone. The court was surrounded by a covered portico supported by columns, consisted of groups of rectangular halls, the northern and southern sides being similarly arranged and the eastern and the western likewise. The roofs are of vaulting system supported by piers adjoining the long wall. Several of the wider halls had columns along the longer axis. There were two main gateways in the center of the eastern and western sides, however, the main gate was that on the eastern side. On the basis of its plan, size and other particular features, such as the probable existence of a bridge spanning the street from its upper floor to the Aqsa Mosque. (Rosen-Ayalon 1989:9; Creswell 1989:95;Ben-Dove1985:293).

The number and the size of these building appears to be enough to host the residency of the Caliph and the whole governmental administration of the Islamic State, which confirms the Umayyads' principle to make Jerusalem their administrative centre, which means the capital in the modern sense.

Conclusion:

From what proceeded, we conclude that Jerusalem was influenced by the Islamic system as soon as it became an Islamic City . This can be seen clearly from the time of the Orthodox and Umayyad Caliphs through urbanizing the Aqsa Mosque Area. This urbanization primarily represented by the building of a mosque by the Caliph Umar, and then renovated by Mu'awiya. This mosque is the one which was seen by Arculf in 670 and called today the Solomon'sStables. The Architectural analysis of the building and its location would confirm that representing the first Aqsa Mosque.

The Urbanization on the Aqsa Mosque area continued later by the Umayyad Caliphs, who planned for a big architectural project to be considered as the most prominent project in the history of the Islamic Architecture. This project included the structure of the Dome of the Rock, a remarkable building still stand stands in the city. The Second Aqsa Mosque the largest Mosque of the period,substituted the first Aqsa Mosque. The Amir Palace (Dar al Imara)with its number five

buildings and its sizes were built in fact to host the residency of the Caliph and the administrative institutions of the Islamic State. Also the walls and gates of the area were constructed and repaired so as protect the structural arrangements of these monuments. Therefore, the urbane development of the Aqsa Mosque area through the achievement of this project indicates the will of the Umayyad to show their power, and their intention for the Holy City to be their own capital in the modern sense.

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Annual Report on Israeli Violations in Jerusalem Governorate – 2024

The Jerusalem Governorate has released its annual report on the crimes and violations committed by the Israeli occupation in the occupied capital throughout the past year, 2024. The report underscores the relentless and ongoing nature of these transgressions, which permeate every aspect of life in the city, as part of a concerted effort to alter its demographic composition and erase its Palestinian Arab identity.

Martyrs

In 2024, 35 Palestinians were martyred in the Jerusalem Governorate, including seven from outside the governorate. Among them were 14 children—the youngest a girl of merely four years. In Gaza, the child Janan Abu Isneineh was martyred, as was the freed prisoner Zakaria Najeeb, who had been exiled to Gaza.

Settler Attacks

The frequency of attacks by settlers and Jewish extremists against Palestinians—especially the residents of Jerusalem—has escalated, exacerbated by the deliberate inaction of the occupation police, who not only fail to arrest the assailants but also provide them with cover for their criminal, racist practices.

In 2024 alone, the Jerusalem Governorate documented 159 settler attacks, including 19 cases of physical assault. Comparatively, there were 110

recorded attacks in 2021, 489 in 2022—of which 112 involved bodily harm—and 225 in 2023, with 50 cases of physical assault.

Recorded Injuries

Throughout 2024, the governorate recorded 168 injuries resulting from live ammunition, rubber-coated metal bullets, severe beatings, and tear gas asphyxiation.

In previous years, the number of injuries in Jerusalem exceeded 3,000 in 2021, while in 2022, the toll stood at 2,486. By 2023, the number had dropped to 543.

Crimes and Violations in al-Aqsa Mosque

In a flagrant violation of the sanctity of al-Aqsa Mosque, settler incursions persisted throughout 2024. A total of 60,792 settlers stormed the mosque compound, in addition to 41,001 others under the guise of "tourism"—a reality imposed by the occupation, with settlers engaging in religious rituals under heavy military protection. These acts included the performance of Talmudic prayers and rituals, prayers for Israeli prisoners and fallen soldiers, and even the wearing of costumes during the Jewish festival of Purim.

Some settlers donned religious prayer garments (tefillin), engaged in individual and collective public prayers, hoisted Israeli flags, and attempted to conduct ritual animal sacrifices. They also performed ritual dances, sang religious hymns, blew the shofar (ram's horn), carried out "epic prostrations," introduced plant-based offerings, and conducted the priestly blessing (Birkat Kohanim). Furthermore, they wore white "atonement robes" associated with the Temple priesthood, held additional collective prayers (Mussaf) in the eastern courtyards, and performed a ritual known as Nusach —mixing water from the Silwan spring, which they claim holds

religious significance. Some settlers entered the mosque clad in prayer shawls and carrying religious texts.

A particularly alarming development occurred in August, when the occupation sought to impose a new political reality through repeated incursions by Israeli ministers and Knesset members. Extremist politician Itamar Ben Gvir declared his intention to build a synagogue within the sacred compound and pursued policies that would grant Jews equal prayer rights inside al-Aqsa alongside Muslims. Ben Gvir personally stormed al-Aqsa four times in 2024.

Since August 13, coinciding with the anniversary of the so-called Destruction of the Temple, settler prayers—especially "epic prostrations"—have been conducted publicly and collectively at al-Aqsa on a daily basis, particularly in the eastern sector, just meters from Bab al-Rahma Prayer Hall, under the protection of occupation forces.

Moreover, 2,958 settlers stormed the mosque, joined by extremist Israeli officials, including National Security Minister Itamar Ben Gvir, Negev and Galilee Minister Yitzhak Wasserlauf, and Knesset member Amit Halevy. They participated in collective prayers, chanted The People of Israel Live, hoisted Israeli flags, and performed public religious rituals.

During Jewish holidays, the occupation authorities imposed severe restrictions on Muslim worshippers, preventing them—both men and women—from entering al-Aqsa at various times, allowing access only after settler incursions had concluded.

A grave incident occurred on Friday, October 4, when two settlers, dressed in Jewish religious garments (the tallit), infiltrated al-Aqsa through Bab al-Qattanin, one of the mosque's western gates.

Siege and Restrictions on al-Aqsa

Throughout 2024, the occupation maintained its siege on al-Aqsa, a policy enforced since its war on Gaza. Muslim worshippers faced severe restrictions on access to the mosque, as occupation forces remained stationed at its gates, erecting iron barriers, halting worshippers, and frequently preventing their entry, particularly during prayer times. In parallel with these restrictions on Muslims, settler incursions continued unabated through Bab al-Maghariba.

Occupation Police Station Near al-Aqsa

In October, the Israeli police announced plans to construct a three-story station near Bab al-Hadid, one of al-Aqsa's gates, along al-Wad Street in the heart of occupied Jerusalem's Old City. This move was approved by the chairman of the so-called Israeli District Planning and Building Committee.

Restrictions During Ramadan

As Ramadan approached, the occupation authorities sought to tighten their grip on al-Aqsa by imposing age-based restrictions on worshippers from Jerusalem and the territories occupied in 1948. However, these measures ultimately failed. Nevertheless, the occupation deprived worshippers from the West Bank of their right to access the mosque except under stringent conditions. These included an age restriction—men over 55 and women over 50 were permitted entry—alongside a requirement for special prayer permits, which expired at 5:00 PM. This effectively allowed worshippers to attend only the midday (Dhuhr) and afternoon ('Asr) prayers, forcing them to leave Jerusalem before sunset, thereby preventing them from performing the Maghrib, Isha, and Tarawih prayers.

During the holy month of Ramadan, occupation forces relentlessly pursued worshippers in seclusion, raiding their tents on multiple occasions,

searching their belongings and personal identification, and conducting field interrogations. Several worshippers were arrested throughout the period of seclusion, including individuals from the West Bank, accused of unlawfully entering Jerusalem.

In the days leading up to Ramadan, the occupation authorities intensified their surveillance of al-Aqsa Mosque, installing additional security cameras around its perimeter. Among the most prominent were three cameras at Bab al-Asbat, covering the northern section of the mosque, a newly installed camera at Bab al-Mathara providing a clear view of those entering and exiting, and a towering structure near Bab al-Silsila's minaret, equipped with advanced surveillance technology.

A comparison with previous years reveals a sharp increase in settler incursions. In 2021, the number of settlers storming al-Aqsa stood at 39,344, rising to 60,089 in 2022 and 55,158 in 2023—an upward trend that continued into 2024.

Crimes Against Christian Holy Sites in Jerusalem

The occupation authorities and extremist settlers persist in their violations against Christian sanctities and the Christian community in occupied Jerusalem, with no genuine intervention to curb these assaults. This emboldens the perpetrators, allowing them to continue their aggression without consequence.

The past year saw numerous attacks targeting Christian sites and clergy. On February 3, settlers assaulted a German monk, Father Nikodemus Schnabel, head of the Benedictine Order in the Holy Land, spitting on him and hurling insults at Jesus Christ as he walked through the Old City of occupied Jerusalem.

In March, the occupation authorities barred thousands of Christians from entering Jerusalem to observe Easter, including Palm Sunday, the Way of the Cross procession, Good Friday, and Holy Saturday, restricting their participation in religious rituals. Palestinian Christians from the West Bank faced severe restrictions during Holy Fire Saturday celebrations, with military checkpoints and barricades limiting access to the Church of the Holy Sepulchre. Many participants were assaulted, and several were arrested in a brutal crackdown.

Eastern Orthodox Christians had earlier declared the cancellation of festivities, limiting observances to religious rituals in honor of Gaza's suffering and the bloodshed there. Jerusalem's scout troops marched in solemn silence through the city's alleys, while the traditional procession from the Christian Quarter to the Church of the Holy Sepulchre resonated with patriotic and religious chants.

In June, the occupation municipality issued legal notices to church leaders in Jerusalem, Jaffa, Nazareth, and Ramla, demanding payment of property taxes (Arnona), in direct violation of the historical status quo and international law. It is worth recalling that in 2018, the occupation authorities announced plans to impose taxes on churches and introduce legislation allowing the confiscation of church-owned properties. In protest, the Church of the Holy Sepulchre closed its doors for three days. Under mounting public pressure and international condemnation, the decision was temporarily suspended.

Targeting of National and Islamic Figures

Under the leadership of a far-right government dominated by settlers, the occupation authorities persist in their efforts to assert sovereignty over Jerusalem and its sacred sites, imposing new realities on the ground. This policy is reflected in the continued persecution of prominent Palestinian

figures, most notably the Governor of Jerusalem, Adnan Ghaith, who has been under indefinite house arrest since August 4, 2022, without a specified end date. Since his appointment in 2018, he has been subjected to five military orders restricting his movements.

The occupation also maintains its relentless campaign against Shadi al-Mutour, Secretary-General of the Fatah movement in occupied Jerusalem, subjecting him to military orders that have been renewed every six months for over five years.

In 2024, the occupation authorities escalated their harassment of Sheikh Ekrima Sabri, the preacher of al-Aqsa Mosque and head of the Islamic Supreme Council in Jerusalem.

In May, an Israeli court extended the administrative detention of former Minister of Jerusalem Affairs, Engineer Khaled Abu Arafa. He was released in June but remains stripped of his residency and forcibly displaced from occupied Jerusalem.

Additionally, the occupation authorities released former Jerusalemite MP Ahmad Attoun after holding him in administrative detention for a year. However, Attoun remains exiled from Jerusalem and has been forced to reside in Bethlehem for the past 13 years.

On May 31, occupation forces assaulted participants marking the 23rd anniversary of the passing of Faisal Husseini, the "Prince of Jerusalem." Among those injured in the attack were Nasser Qaws, director of the Prisoners' Club, and Ishaq al-Qawasmi, an employee of the Orient House.

Arrests in 2024

Throughout the year, occupation forces launched extensive arrest campaigns against Jerusalemites under false pretexts, with 1,287 documented arrests

across all areas of Jerusalem Governorate. Among those detained were 112 children and 65 women.
In addition, occupation forces arrested more than 6,000 workers from the West Bank, citing alleged illegal presence in Jerusalem, according to the Wadi Hilweh Information Center.

In recent years, the number of arrests has fluctuated. In 2021, a total of 2,879 individuals were detained. This figure rose to 3,504 in 2022 before declining slightly to 3,081 in 2023. The arrests recorded in 2024 were thus fewer than those in the previous three years.

Occupation Courts' Rulings Against Detainees

The courts of the occupation impose harsh and unjust rulings on detainees, ranging from actual prison sentences and house arrest to orders of expulsion and exorbitant fines. Some detainees are also subjected to travel bans, while others remain in detention for months—sometimes years—without formal charges being brought against them.

Prison Sentences

The report documented the issuance of 411 prison sentences by the occupation's discriminatory courts against Jerusalemite detainees, including 280 cases of administrative detention, whereby individuals are held without clear charges.

Compared to previous years, 2024 saw a notable increase in actual prison sentences, particularly administrative detentions. In 2021, the occupation issued 157 such sentences, including 43 administrative detentions. In 2022, this number rose to 276 sentences, with 96 administrative detentions. By 2023, it had reached 330, including 153 administrative detentions.

House Arrest

House arrest has become a noose tightening around the necks of Jerusalemites, as occupation courts impose rulings forcing individuals into prolonged, involuntary confinement within their own homes—turning their residences into prisons. This measure not only restricts the detainees themselves but also burdens their guarantors, creating a state of constant psychological and social strain. In 2024, 51 house arrest rulings were documented.

A comparison with previous years reveals a marked decrease in such rulings. In 2023, the occupation issued 316 house arrest orders, a sharp increase from 214 in 2022 and 176 in 2021.

Expulsion Orders

The occupation authorities employ expulsion orders as a tool to suppress Palestinian presence in al-Aqsa Mosque, the Old City, Bab al-Amoud, and other targeted areas. In 2024, they issued 102 expulsion orders, including 52 barring individuals from al-Aqsa Mosque.

The occupation also invokes security pretexts to prohibit Palestinians—especially Jerusalemites—from traveling. In 2024 alone, eight travel bans were documented.

Demolitions, Land Seizures, and Forced Displacement

The occupation pursues a systematic policy of demolishing Palestinian homes in occupied Jerusalem, a practice that serves as both a punitive measure and a means of forced displacement and ethnic cleansing. This strategy is part of a broader effort to Judaize the city and impose its full Israelization.

The occupation authorities justify the demolition of homes under the pretext that they were built without permits, despite the fact that approvals for Palestinian construction in Jerusalem are rarely granted.

In 2024, a total of 380 demolitions and land clearances were carried out across Jerusalem Governorate, including 92 forced self-demolitions, 259 demolitions executed by occupation machinery, and 29 land clearances.

It is worth noting that in 2004, the occupation municipality issued an order to demolish the al-Bustan neighborhood, but the decision was frozen for 16 years due to international pressure.

Targeting the Homes of Martyrs' Families

On January 9, occupation forces detonated the home of the family of martyrs Murad and Ibrahim Nimr in the town of Sur Baher, claiming they had carried out a shooting near the settlement of Ramot in late November. The detonation was preceded by a large-scale raid on the town, during which leaflets were distributed, warning residents to stay away from the area.

On April 16, occupation forces blew up part of the al-Muhtasib family home in Beit Hanina, sealing off another section with concrete.

On May 9, they demolished the home of martyr Fadi Jamjoum in the Shu'fat refugee camp, months after he was killed in February following a shooting near the city of Ramla in northern occupied Palestine.

In July, a large force of occupation troops stormed Qalandiya refugee camp, surrounded the home of martyr Mohammad Manasra, and detonated it.

A comparison with previous years reveals a surge in demolitions and land clearances in 2024. The total number of such operations stood at 315 in 2021, 306 in 2022, and 337 in 2023, marking a continued escalation in

destruction.

Demolition Orders, Forced Evictions, and Land Seizures

In 2024, occupation authorities issued over 130 demolition notices across Jerusalem Governorate, targeting areas including Bab al-Amoud, Silwan, al-Jib, Hizma, Anata, Jaba', Jabal al-Mukabbir, Kafr 'Aqab, Shu'fat refugee camp, and the Abu Nuwar community east of occupied Jerusalem. Notices were also delivered in the neighborhoods of al-Bustan, Yasul, Wadi al-Joz, al-Khanaydaq, and Ras al-Nadir in the town of Beit 'Anan, northwest of the city.

In May, occupation forces ordered the demolition of dozens of commercial establishments along the road connecting the Jaba' and Qalandiya military checkpoints, north of Jerusalem, as well as a bridge linking the towns of Jaba' and al-Ram.

Forced Displacement

On April 15, the occupation court issued a ruling ordering the Diab families to vacate their homes in the Sheikh Jarrah neighborhood of occupied Jerusalem. The families were given until mid-July to comply, with the option to appeal the decision within two months. Three families, comprising 17 individuals, reside in these homes.

In May, the Shahada family in Silwan filed a petition with the occupation's so-called "Supreme Court" to overturn an Israeli judge's eviction order from their homes in the Batn al-Hawa neighborhood. The order was issued without consulting the legal advisor and without allowing the family's lawyer to contest it.

It is worth noting that the eviction of the Shahada family would serve as a precedent for the displacement of 87 other families in Batn al-Hawa, who were issued eviction notices in 2015 by the Ataret Cohanim settler organization, in collaboration with the occupation's municipality, to make way for settlers.

On May 9, the occupation's so-called "Supreme Court" annulled eviction orders against the Hammad, Dajani, and Dahoudi families in Sheikh Jarrah. On July 11, the occupation court issued a ruling ordering the expulsion of 30 Jerusalemites from the Rajabi family in the Batn al-Hawa neighborhood of Silwan. The family has since appealed the decision.

It is worth noting that 187 homes in Batn al-Hawa are under threat of demolition.

On September 11, the occupation court issued another ruling to evacuate the home of the Salem Ghaith family in Batn al-Hawa, handing it over to settlers.

Seizure of Palestinian Land and Homes

On February 6, occupation authorities seized the land of "Souq al-Jum'a," located along the northeastern section of Jerusalem's Old City wall. They began excavation and bulldozing operations to construct a "park" as part of the "Gardens Around the Old City Wall" project. The 1,200-square-meter plot belongs to the 'Oweis, Hamad, and 'Atta Allah families.

At the end of February, occupation authorities announced the seizure of over 2,600 dunams of land in Abu Dis and al-'Eizariya, including vast Bedouin residential areas such as the Abu Nuwar community east of occupied Jerusalem.

On February 19, settlers—under the protection of occupation forces—took over land in Batn al-Hawa, Silwan.

The settler organization Ateret Cohanim seized two and a half dunams in Batn al-Hawa under military protection, claiming they were part of the Jewish Benvenisti endowment.

The residents of Silwan had long used the confiscated land as a shared parking area. It also housed a garage belonging to the Rajabi family and plots owned by the Silwadi and Abu Diab families. The Palestinian families possess documents proving their ownership for centuries. However, occupation forces forced them to vacate the land, demolishing structures and fencing off the area.

On May 10, Palestinian residents successfully reclaimed their land and property in the Bir al-Maskoub Bedouin community near Khan al-Ahmar, east of occupied Jerusalem. Settlers had seized it on May 7, preventing the residents from remaining there.

On June 27, settlers took over a home belonging to the Khalidi family near Bab al-Silsila in the Old City of occupied Jerusalem. They claimed to have purchased the house, forcibly breaking in and changing the locks. The house, a waqf property of the Khalidi family, spans 200 square meters, contains seven rooms, and overlooks the Western Wall. However, the Khalidi family managed to secure an occupation court ruling evicting the settlers and reclaiming their home.

Occupation authorities also carried out land registration procedures in Umm Tuba, south of occupied Jerusalem, without informing the Palestinian landowners. Citing the so-called "Israeli Land Settlement

Law," they registered 63 dunams under the "Jewish National Fund." This move threatens to displace 30 Palestinian families—comprising 139 individuals—placing them at imminent risk of forced eviction.

The land registration process was triggered when a local landowner applied for a construction permit, only to discover that his land had been registered under the Jewish National Fund. Palestinian families have since filed an appeal to halt the registration process.

Seizure of Palestinian Property

On July 16, settlers seized the home of Jerusalemite Jawad Abu Nab in Batn al-Hawa, south of al-Aqsa Mosque, exploiting its temporary vacancy.

On August 15, settlers stormed the Shihadeh family home in Batn al-Hawa, Silwan, and took control of it under military protection.

Occupation forces barred Jerusalemite Younis Shihadeh from entering his residential building, which consists of five apartments, while settlers took over the entire structure in Silwan.

On September 15, settlers seized an apartment in the town of At-Tur.

On October 9, under military protection, settlers took over a plot of land in Jabal al-Mukabbir and a home in the Baydoun neighborhood of Silwan.

On December 10, settlers—again backed by occupation forces—took control of a home belonging to the Ghaith family in Batn al-Hawa, Silwan.

Enactment of Racist Laws

In 2024, the Israeli Knesset passed a series of colonial and racist laws, continuing a legislative trajectory that escalated following the October 7, 2023, assault on Gaza.

On October 29, the Knesset amended the Basic Law on "Jerusalem—the Capital of Israel," prohibiting the establishment of diplomatic missions in East Jerusalem that serve Palestinians.

On October 28, it passed two laws banning the operations of the United Nations Relief and Works Agency (UNRWA) in areas under "Israeli sovereignty" and prohibiting engagement with the agency.

On November 5, the Knesset passed a final reading of a law allowing the dismissal of any Israeli education sector employee—and the defunding of any recognized educational institution—if they express support for what Israel defines as "terrorism," a "terrorist organization," or "terrorist acts."

On November 7, the Knesset approved, in its second and third readings, a bill permitting the deportation of families of individuals accused of carrying out attacks—either to Gaza or to other locations "as determined by circumstances." This law marks a severe escalation in the occupation's policy of collective punishment against Palestinians.

The Knesset also passed temporary orders allowing for the imprisonment of children under the age of 14 if convicted of participating in resistance operations—an act that flagrantly violates international child rights conventions.

On November 12, Knesset member Yitzhak Kreuz of the Otzma Yehudit party proposed a bill aimed at restricting the activities of the Palestinian Authority, the Palestine Liberation Organization (PLO), and the Fatah

movement in East Jerusalem and surrounding areas, including towns and refugee camps. The bill seeks to dismantle any Palestinian political or administrative presence in the city, reinforcing Israel's efforts to entrench its control and advance Judaization policies.

In December, occupation authorities enacted a measure allowing them to confiscate any land in Jerusalem whose owners cannot provide proof of ownership, classifying it under the so-called "Absentees' Property Law" and barring Palestinians from obtaining construction permits on such lands.

The occupation began implementing this policy in Sheikh Jarrah and Jabal al-Mukabbir, specifically targeting properties in the Qanbar neighborhood and lands near the separation wall in Abu Dis.

Israel is expanding these measures throughout Jerusalem, with a particular focus on Silwan—especially in the neighborhoods of al-Bustan, Batn al-Hawa, and 'Ain al-Louza.

The strike as a means for Jerusalemites to make their voices heard:

Jerusalemites resort to strikes as a means of expression, solidarity, and resistance against the crimes and aggressions of the occupation.

Throughout 2024, they staged eight strikes in protest against targeted assassinations and the relentless atrocities committed by the occupation against the people of Gaza and the West Bank.

Tightening the noose around Jerusalemites:

The occupation employs various methods to suffocate Jerusalem's residents—imposing exorbitant fines, issuing threats, and enforcing collective punishment.

In April, occupation forces levied a staggering fine of 700,000 shekels on Abdullah Ghanem, a resident of Wadi Hilweh in Silwan, after he refused to sell his home to settler organizations.

The fines extended to five of his family members, including his two sons, his wife, and his daughter, who has been married for eight years. One such penalty targeted his son's car, allegedly for being parked in an area settlers claim as an ancient cemetery—despite it being a shared parking space for neighborhood residents.

In defiance of repeated attempts by the occupation and its colonial arms to seize his property, Ghanem secured his home as an Islamic endowment, rendering it unsellable and non-transferable.

That same month, the occupation distributed and posted threatening notices in the Shuafat refugee camp and Anata, citing alleged stone-throwing and firecracker attacks. These warnings referenced the targeted killing of the martyr Rami al-Halhuli and the ensuing collective punishments, including the closure of checkpoints and the use of stun grenades.

On May 8, an occupation court sentenced two young Jerusalemites, Uday Adnan Ghaith and Amer Zaydani, to forced labor within Israeli institutions and ordered them to pay monetary compensation to settlers, under the pretext of a prior altercation.

On May 16, occupation forces raided the home of the Samreen family in Wadi Hilweh, Silwan, in search of four-year-old Aser Samreen, accusing him of "throwing a stone at a settler's vehicle."

On May 23, the occupation forced Jerusalemite Azmi Abu Ghanam to pay 5,000 shekels merely to file an appeal against fines totaling 70,000 shekels. His offense? Parking his vehicle in Wadi al-Rababa, an area settlers claim as a cemetery.

In June, the Israeli water company "Mekorot" continued to reduce water supply to the Jerusalem Water Undertaking's service areas by over 50%, triggering a severe water crisis across the governorate.

Strangling Jerusalemites' right to obtain building permits:

A report published by the organizations Ir Amim and Bimkom—titled From One Hundred to Zero—exposed a drastic shift in the issuance of building permits for Palestinians in East Jerusalem.

According to the report, every single permit application submitted in 2023 failed to meet the requirements of a new procedural system, resulting in the issuance of zero permits—an unprecedented figure compared to the past five years, which saw an average of 100 permits granted annually.

This decline stems from the abolition of the Mukhtar Procedure, which had previously facilitated the submission of applications, and the introduction of new, nearly impossible conditions, such as providing additional documents—including tax records from the Jordanian era before 1967.

Notably, these statistics pertain to building permits for unregistered or unzoned land in Jerusalem.

Suffocating the olive harvest season:

On October 5, settlers stole olive yields from Wadi al-Rababa in Silwan, Jerusalem, stripping 159 dunums of their harvest entirely.

On October 30, settlers raided lands in the same area and plundered the olive crops.

On October 26, occupation forces blocked Palestinian farmers from accessing their lands in Beit Hanina, north of occupied Jerusalem.

On November 3, occupation forces confiscated farming equipment and machinery from lands in the village of Beit Surik, northwest of Jerusalem, preventing Jerusalemites from using them or cultivating their land. This came despite the fact that the Beit al-Maqdis Cooperative Agricultural Society had rehabilitated the land for productive projects aimed at providing jobs for the local community.

Jerusalem Governorate is home to 18,500 farmers, with cultivated lands spanning 19,002 dunums. There are 16 agricultural gates in northwest Jerusalem, through which 1,821 farmers must coordinate their entry in

advance.

Violations against Jerusalemite detainees:

Throughout 2024, occupation authorities escalated their violations against detainees and former prisoners, particularly following the onset of the occupation's aggression against Gaza. Mounting concerns persist over the risk of mass deaths among detainees due to the occupation's inhumane policies.

Crimes and violations against Jerusalem's institutions and landmarks:

In its ongoing efforts to dismantle Palestinian presence in the occupied capital, the occupation continues to shut down institutions and suppress events that affirm the resilience of Jerusalemites in their city.

Among the most egregious violations in 2024 were:

- Targeting educational institutions and Palestinian students while waging war on the Palestinian curriculum.
- Assaulting religious sites and erasing their historical identity.
- Inciting hatred and fostering inflammatory rhetoric.
- Inciting against international institutions in Jerusalem, particularly UNRWA.
- Targeting journalists.
- Attacking media and medical institutions.
- Obliterating the city's landmarks.
- Cracking down on national events.

Colonial expansion projects:

In 2024, occupation authorities approved 19 new colonial projects, commenced construction on 12 previously sanctioned projects, and completed four others.

رائد المطاوع 2019